



ROYAL CANADIAN MOUNTED POLICE

in the matter of a conduct hearing pursuant to the
Royal Canadian Mounted Police Act, RSC, 1985, c R-10

BETWEEN:

Commanding Officer, "E" Division

(Conduct Authority)

and

Corporal Tammy Hollingsworth, Regimental Number 47205

(Subject Member)

Conduct Board Decision

Kevin L. Harrison

May 13, 2019

Staff Sergeant Jonothan Hart, for the Conduct Authority

Ms. Nicole Jedlinski, for the Subject Member

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SUMMARY

The *Notice of Conduct Hearing* contained five allegations against the Subject Member, Corporal Tammy Hollingsworth.

The first three allegations included two allegations under section 3.2 of the Code of Conduct and one allegation under section 4.2 of the Code of Conduct. These matters came to light following a domestic violence incident involving another member and his estranged spouse. This incident occurred on July 20, 2016.

The allegations under section 3.2 of the Code of Conduct indicate that, leading up to the domestic violence incident, Corporal Hollingsworth abused her position, power and authority as a member by conspiring with various members of the general public as well as her husband, Inspector Sukhjit (Suki) Manj, to actively seek out and learn intimate details of the private life of Constable Mark Freeman so that his estranged wife, a friend of Corporal Hollingsworth, could learn the details of her husband's "friendship" with a female believed to be a municipal employee who also worked at the Lloydminster Detachment with Corporal Hollingsworth and Inspector Manj.

In relation to the allegation under section 4.2 of the Code of Conduct, it was alleged that, following the domestic violence incident, Corporal Hollingsworth failed to be diligent in the performance of her duties and the carrying out of her responsibilities because she not only failed to have the domestic violence incident investigated, but she obstructed the matter by actively discouraging the victim from reporting the incident. It was also alleged that Corporal Hollingsworth failed to address the alleged victim's genuine fear that her estranged husband, a member, would attend her residence following the incident.

The final two allegations are under section 8.1 of the Code of Conduct. It was alleged that Corporal Hollingsworth provided false and misleading information in two "voluntary warned statements" provided to investigators in relation to two separate investigations. The first statement related to a harassment investigation being conducted in relation to Corporal Hollingsworth's husband. The second statement related to this Code of Conduct process.

Following a contested conduct hearing, the Conduct Board found that none of the five allegations were established.

INTRODUCTION

[1] On September 13, 2017, the Commanding Officer and Conduct Authority for “E” Division (the Conduct Authority) signed a *Notice to the Designated Officer* requesting a conduct hearing be initiated in relation to this matter. The Conduct Board was appointed by the Designated Officer on September 20, 2017.

[2] Pursuant to Part IV of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*], a *Notice of Conduct Hearing* was issued on October 11, 2017, by the Conduct Authority. This Notice, which contained five allegations, was served on Corporal Tammy Hollingsworth¹ [Corporal Hollingsworth] on October 23, 2017.

[3] A *Notice of Place, Date and Time of Conduct Hearing* was issued by the Board on June 8, 2018. A conduct hearing was held in Edmonton, Alberta, from September 17 to 21, 2018, inclusively. The oral testimony of witnesses was heard in the allegation phase of the hearing.

[4] The conduct hearing was adjourned to October 30, 2018, for the oral submissions of the parties in the allegations phase. The submissions were delivered by video conference.

[5] The Board’s oral reasons for the decision were also delivered by video conference on November 14, 2018. The Board found that all five allegations contained in the *Notice of Conduct Hearing* were not established. The following is the Board’s complete written decision prepared in accordance with subsection 45(3) of the *RCMP Act*.

PRELIMINARY MATTERS

Request for adjournment

[6] At the commencement of the conduct hearing, the Conduct Authority Representative made a request for an adjournment of the conduct hearing. The request was made on behalf of legal counsel for Mrs. D.R. The Board had issued a summons compelling Mrs. D.R.’s attendance at the conduct hearing. She honoured the summons and was in attendance at the commencement of the hearing.

¹ Other regular members involved in this matter will be interchangeably referred to by their rank and/or the honorific (i.e. Mr. or Mrs.). Corporal Hollingsworth, although acting in both her capacity as a member and a civilian throughout this matter, she will be referred to as Corporal Hollingsworth throughout this decision as the allegations against her have been brought in her capacity as a member of the RCMP.

[7] The reason for the adjournment request was that Mrs. D.R. wished to testify at the conduct hearing. However, her treating health care practitioner was of the opinion that she was unable to testify at this time for medical reasons. The Board was provided a letter from Mrs. D.R.'s treating health care professional and heard submissions from the parties. The letter provided no clear indication as to when Mrs. D.R. would be able to testify.

[8] In denying the request for the adjournment, I noted that section 21 of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*] provides that a conduct board may adjourn a hearing, if necessary, for up to 30 days or longer in exceptional circumstances. I further noted that subsection 23(1) of the *CSO (Conduct)* states that if no testimony is heard, a conduct board may render a decision in respect of an allegation based solely on the Record. The Record contained two statements from Mrs. D.R. In the absence of testimony from her, it was open to me to rely on these two statements.

Procedural issues raised by the Conduct Authority Representative

[9] On numerous occasions during pre-hearing conferences and the conduct hearing, the Conduct Authority Representative raised concerns with respect to procedural issues related to his ability to examine various witnesses. He believed that his ability to examine witnesses was constrained by the procedures established under the new RCMP conduct regime and decisions I made in relation to them.

[10] The Conduct Authority Representative made specific comments during the conduct hearing relative to my decision not to allow statements provided by Inspector Sukhjit (Suki) Manj² [Inspector Manj], which were given in other conduct matters, to be entered into this proceeding. The Conduct Authority Representative also felt this decision affected his ability to properly examine Inspector Manj during the conduct hearing. I addressed these concerns, to a certain extent, during the conduct hearing³.

[11] During pre-hearing conferences, the Conduct Authority Representative indicated that he felt Inspector Manj needed to appear before the Board to provide oral evidence. The Member

² Inspector Manj will be interchangeably referred to as Mr. Manj when acting in his personal capacity and as Inspector Manj when acting as a member of the RCMP.

³ See Conduct Hearing Transcript, Volume 1, beginning at page 143, line 20.

Representative and I agreed. Although two statements had been obtained from Inspector Manj in relation to his own conduct matters, no statement had been obtained from him specifically in relation to this Code of Conduct investigation or any other investigation pertaining to Corporal Hollingsworth. I addressed the absence of a statement from Inspector Manj by way of a Direction issued on June 7, 2018. The Direction required Inspector Manj to provide a response to seven specific questions devised by the Board in consultation with the parties. The response to my Direction was provided through legal counsel for Inspector Manj on September 6, 2018.

[12] The Conduct Authority Representative's concerns with respect to his ability to examine witnesses at the conduct hearing extended beyond Inspector Manj to include other witnesses who had provided statements during the various investigations. I feel these additional concerns require further comment at this time.

[13] The starting point for this discussion is with some basic concepts relating to the current RCMP conduct regime. These are contained in Part 2, section 2 of the *Conduct Board Guidebook*. The pertinent sections read as follows:

2.2 The reforms adopted by the LRI [Legislative Reform Initiative] were expressly based upon certain principles arising from broad consensus and understanding among stakeholders: conduct proceedings, including hearings before a conduct board, are to be timely and not overly formalistic, legalistic, or adversarial.

2.3 As such, proceedings before a conduct board are not to be interpreted or understood as requiring highly formalized and legalistic practices and procedures akin to a formal court like process. Rather, they will be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit.

2.4 In most respects, conduct hearing will unfold much like a conduct meeting, except that a conduct board has certain authorities to compel evidence and give direction, when it considers it necessary, given that it is dealing with a dismissal case. A conduct hearing is administrative in nature and will be led by the conduct board (and not the parties), it has broad discretion to control its own process and give direction.

2.5 In support of this approach, the former rights of parties to be afforded a full and ample opportunity to present evidence, cross-examine witnesses and to make representation at a hearing were expressly removed from the *Royal Canadian Mounted Police Act*.

2.6 Furthermore, a conduct board will expressly rely upon an investigation report and supporting material in making findings and determinations. At the sole discretion of the conduct board, a witness will generally only be summoned to testify when the conduct board considers there to be a serious or significant unresolved conflict in the evidence and the testimony of the witness would be material and necessary in resolving the conflict.

[14] It is clear from the foregoing that once a conduct board is appointed, the conduct board controls the process⁴. However, it is the conduct authority who controls the process prior to the board's appointment, beginning with the receipt of a complaint or other information relating to a member's conduct. Even the decision to initiate a conduct hearing is made by the conduct authority.

[15] The process originates when a conduct authority receives information with respect to a possible contravention of the Code of Conduct by a member. The conduct authority assesses the information to determine whether or not it **appears** the member has contravened a provision of the Code of Conduct. If it appears that a contravention of the Code of Conduct has occurred, then the conduct authority orders the investigation of that contravention pursuant to subsection 40(1) of the *RCMP Act*. Although someone else may conduct the investigation, the conduct authority has the discretion "to cause to be made any investigation that the conduct authority considers necessary to enable the conduct authority to determine whether the member has contravened or is contravening the provision⁵". Although judicial authorization is required for certain investigative actions, it is clear that the conduct authority has complete control over the investigation process, including the ability to compel a member to answer questions⁶. Further support for this position is found in *Administration Manual* XII.1.6.8.1.6, which reads:

The conduct authority who initiates the investigation is responsible for the administration and management of the investigation and for ensuring the investigation is completed in a timely manner consistent with the Conduct Investigation Mandate letter.

[16] At the conclusion of a Code of Conduct investigation, the conduct authority is directed by *Administration Manual* XII.1.6.8.1.9 to review the investigation report and any relevant material as soon as feasible. If it becomes necessary to obtain further information, the conduct authority has the

⁴ See also subsection 45(2) *RCMP Act* and section 13 of the *CSO (Conduct)*.

⁵ See subsection 40(1) *RCMP Act*.

⁶ See subsection 40(2) *RCMP Act*.

authority to request a supplemental investigation. This must be done in writing and the subject member must be advised that further investigation is required.

[17] Once the conduct authority is satisfied that the information contained in the investigation report and supporting material is sufficient, the conduct authority must decide whether there is sufficient evidence to support a *prima facie* finding that the subject member's conduct amounts to a contravention of the Code of Conduct and if so, "having regard for the gravity of the contravention and the surrounding circumstances", determine the sufficiency of the conduct measures available to the conduct authority to address the contravention.

[18] If the conduct authority determines that there is a *prima facie* case against the member and that the conduct measures available to him or her are not sufficient to address the contravention, then the matter is moved upwards in the chain of authority in respect of the member to administer appropriate conduct measures. If it is determined that the gravity of the contravention and the surrounding circumstances support the dismissal of the member, the conduct authority is responsible for initiating a conduct hearing as soon as feasible⁷.

[19] If the decision is made to initiate a conduct hearing, the investigation report and supporting material is provided to the Conduct Authority Representative Directorate for review and the preparation of the *Notice of Conduct Hearing* as a matter of policy⁸.

[20] According to section 5.1 of the *Conduct Board Guidebook*, a conduct authority representative is assigned to be the conduct authority's representative at the conduct hearing. In this capacity, the conduct authority representative will actively take steps to resolve a conduct matter as expeditiously as possible. In carrying out their duties, section 5.2 of the *Conduct Board Guidebook* provides further direction as follows: "The CAR [Conduct Authority Representative] is to ensure that justice is done and not primarily seek to obtain a finding of a contravention of the Code of Conduct."⁹ With this in mind, coupled with the fact that the conduct authority has the onus of proving the allegations

⁷ See *Administration Manual* XII.1.11.3.

⁸ See *Administration Manual* XII.1.7.2.1.6.1.

⁹ *Administration Manual* XII-1-22, paragraph 1 n) also reads, "when engaged as a representative of the conduct authority, not primarily seek to obtain a finding of a contravention of the Code of Conduct, but to see that justice is done; [...]"

on a balance of probabilities, the conduct authority representative conducts a review of the investigation report and supporting materials.

[21] In the criminal context, some jurisdictions in Canada have a policy known as “pre-charge screening”. In this process, the fruits of the criminal investigation are provided to a Crown Attorney who conducts a review of the material and makes a determination as to whether or not criminal charges are to be brought and what those charges are to be. The test applied by the Crown Attorney is whether or not there is a reasonable prospect or likelihood of conviction. In these jurisdictions, the police cannot lay a criminal charge unless a Crown Attorney authorizes it.

[22] In the RCMP conduct process, the delivery of the investigation report and supporting material to the Conduct Authority Representative Directorate for review bears some similarities to the criminal pre-charge approval process. There are also significant differences which include, but are not limited to, the following:

- The Crown Attorney operates within the rules of a criminal process whereas a conduct authority representative is governed by the rules of an administrative process.
- The Crown Attorney has final decision-making power. A criminal charge cannot be laid without the Crown’s approval. The conduct authority representative operates in an advisory capacity. The conduct authority has the ultimate say in terms of initiating a conduct board and the content of the *Notice of Conduct Hearing*.
- The test employed by the Crown Attorney is whether there is a reasonable prospect of conviction against the standard of beyond reasonable doubt. This is a significantly higher standard than that required of a conduct authority. The test employed by the conduct authority, when deciding to initiate a conduct board, is whether there is a *prima facie* case against the member for the conduct board making a decision based on a balance of probabilities.

[23] The most significant common feature is that the Crown prosecutor, as the final decision-maker, and the conduct authority representative, in an advisory capacity to the conduct authority, must conduct a **thorough and objective review** of all of the material provided in order to make a sound assessment of the existing evidence.

[24] If, after this thorough and objective review, the conduct authority representative is not convinced that there is sufficient evidence to establish a *prima facie* case against the subject member on a balance of probabilities, then it is open to the conduct authority representative to make recommendations to the conduct authority for further investigation in order to obtain sufficient evidence, or provide the conduct authority with the opinion that a *prima facie* case cannot be established to the degree of proof required at a conduct hearing.

[25] The conduct authority and the conduct authority representative are responsible for the content of the initial investigation report and supporting material delivered to the subject member and the conduct board. They are also in the driver's seat when it comes to the contents of the *Notice of Conduct Hearing* since it is "reverse-engineered". What I mean by "reverse-engineered" is that the *Notice of Conduct Hearing* should be drafted or constructed in a way that the allegation(s) and corresponding particulars conform to the evidence contained in the investigation report and supporting material. If the *Notice of Conduct Hearing* is drafted this way, then barring any unforeseen evidence missed during the investigation or review process, it should not be overly difficult for the conduct authority to prove its case on a balance of probabilities.

[26] Once a decision is made to proceed to a conduct hearing, the conduct authority and the conduct authority representative must be satisfied with what is in the investigation report and supporting material, because the witnesses are essentially the conduct authority's witnesses. This stems from several factors. First, the onus is on the conduct authority to prove its case on a balance of probabilities. Second, the conduct authority controls the investigation process forming the basis of the *Notice of Conduct Hearing*. Finally, the RCMP conduct regime is no longer an adversarial process.

[27] Once a conduct board has been appointed, the board has broad powers including the authority to direct further investigation or order the production of additional documents. As previously noted, the conduct board also has the prerogative to decide to hear oral testimony from any witness deemed to be necessary and material to resolving a serious or significant conflict in the evidence. But, it is not for the conduct board, after reviewing the investigation report and supporting material, to assign witnesses to a party on the basis of what it believes the witness will say in evidence at the conduct

hearing so that each party has the opportunity to cross-examine those witnesses who are likely to provide evidence that is adverse to or does not support the respective case of a party.

[28] The whole purpose of section 18 of the *CSO (Conduct)* is to have the parties give full consideration to their respective cases to determine which witnesses they believe are required for the case. The first three sections of Part 19 of the *Conduct Board Guidebook*, which relate to pre-hearing conferences, provide further direction in this regard. These sections read as follows:

19.1 The purpose of a pre-hearing conference is to permit the conduct board to deal with any unresolved issues in order to ensure that the hearing proceeds as informally and expeditiously as possible.

19.2 It is the obligation of the parties to resolve as many issues as possible before attending a pre-hearing conference, including the identification of witnesses, if any, that the parties believe are required to resolve any serious or significant conflict in the evidence.

19.3 The parties will make every reasonable effort to produce and present to the conduct board a single list of the witnesses whose evidence is not only required in order to resolve any serious or significant conflict in the evidence, but is also material and necessary in resolving that conflict.

[29] None of this appears to have happened in this case. Instead, the parties remained in “adversarial mode”. They failed to comply with section 18 of the *CSO (Conduct)* and provide me with their respective witness lists, let alone deliver a single agreed upon list. Consequently, I was forced to rely on a document I prepared to assist me in meeting my subsection 18(4) of the *CSO (Conduct)* obligation to provide the parties with a list of witnesses that I intended to hear and the reasons for accepting or refusing any witness on the list of witnesses provided by the parties.

[30] From the outset, there were a considerable number of witnesses who provided evidence that was not in line with the Conduct Authority’s theory of the case. Consideration of the foreseeable evidence of these witnesses should have been part of the Conduct Authority’s and Conduct Authority Representative’s assessment as to whether or not a *prima facie* case could be established on a balance of probabilities. This assessment should have been conducted prior to the *Notice of Conduct Hearing* being drafted and served on the Subject Member. This may have happened in this case. The Board is not privy to the discussions between the Conduct Authority and the Conduct Authority Representative since they are protected by solicitor/client privilege.

The Board's concerns with the *Notice of Conduct Hearing*

[31] This brings me to the *Notice of Conduct Hearing*. I have several issues with it, none of which are fatal to the Conduct Authority's case at this point, but are rather simple observations.

[32] Although the particulars are set out in the *Notice of Conduct Hearing* with respect to each alleged contravention of the Code of Conduct, the Conduct Authority is not obliged to prove each specific particular. The Conduct Authority is only obliged to prove that Corporal Hollingsworth's conduct, with respect to each allegation, amounts to a contravention of the Code of Conduct. Having said this, I am going to address a procedural issue that was brought up numerous times throughout this proceeding.

[33] All five allegations contain a particular that Corporal Hollingsworth was a member of the Royal Canadian Mounted Police posted to Lloydminster Detachment in "K" Division. However, as the Member Representative pointed out in Corporal Hollingsworth's subsection 15(3) of the *CSO (Conduct)* response to the allegations in relation to Allegations 4 and 5, Corporal Hollingsworth was no longer stationed at Lloydminster Detachment in "K" Division. She had relocated and was stationed in "E" Division when she provided the statements that are the subject of these two allegations. The important fact is that Corporal Hollingsworth was, at all material times to these allegations, a member of the Royal Canadian Mounted Police. This fact has been admitted and I have found that she was a member of the RCMP at all material times.

[34] I attribute this error to simple inadvertence. Nevertheless, it is a reminder that greater care should have been taken by the Conduct Authority Representative in the preparation of the *Notice of Conduct Hearing*.

[35] The second issue is more concerning as it speaks directly to what I have just discussed in terms of the assessment of the evidence. During the conduct hearing, two of the particulars contained within the *Notice of Conduct Hearing* were struck by the Conduct Authority Representative. The reason given for striking one of these particulars was that there was no evidence in the Record to support the particular. The particular is Particular 8 in Allegation 2, which states that Corporal Hollingsworth breached her duty to act fairly and with impartiality by actively encouraging Mr. G.M. and Mrs. D.M. to make complaints about Mrs. D.R. to the City of Lloydminster and Constable

Mark Freeman¹⁰ (Constable Freeman) to the Civilian Review and Complaints Commission for the RCMP for purely self-serving reasons.

[36] This is a very serious claim as it goes directly to Corporal Hollingsworth's integrity. I am not suggesting that any allegation against a member should be taken lightly, but such claims need to be taken very seriously since a member's integrity is at the heart of their professional career.

[37] Therefore, I must ask, "If there was no evidence of this claim heard during the conduct hearing and the particular was struck because there was no evidence otherwise in the Record, then why was this particular included in the *Notice of Conduct Hearing* in the first place?" There was no evidence to support this particular in the investigation report and supporting material forming the Record which should have formed the evidential basis for the content of the *Notice of Conduct Hearing*.

[38] This concern will become more apparent as I proceed through my decision, so I will move on to my findings on the allegations.

EVIDENCE AND FINDINGS ON THE ALLEGATIONS

[39] The role of a conduct board, as set out in subsection 45(1) of the *RCMP Act*, is to decide whether or not each allegation of a contravention of a provision of the Code of Conduct contained in the *Notice of Conduct Hearing*, served under subsection 43(2) of the *RCMP Act*, is established on a balance of probabilities. The onus of proving these allegations on a balance of probabilities rests solely with the conduct authority.

Determination of Established Facts

[40] In addition to finding that Corporal Hollingsworth was a member of the Royal Canadian Mounted Police at all material times of the five allegations, as previously mentioned, I made further findings of fact that are contained in the *Determination of Established Facts*.

[41] The following findings relate to all five allegations:

- Corporal Hollingsworth was married to Inspector/Mr. Manj;

¹⁰ Constable Freeman will be interchangeably referred to as Mr. Freeman when acting in his personal capacity and as Constable Freeman when acting as a member of the RCMP.

- Inspector Manj was the Officer in Charge of Lloydminster Detachment from July 2014 to August 2016;
- Mrs. D.R. was a municipal employee at Lloydminster Detachment;
- Corporal Hollingsworth was close personal friends with Mrs. V.F.;
- Mrs. V.F. was the estranged wife of Mr. Freeman;
- Constable Freeman was a regular member of the RCMP posted to Lloydminster Detachment in the capacity of a Police Service Dog Handler; and
- Mr. Freeman was renting accommodations on property owned by Mr. G.M. and Mrs. D.M. for a period in 2016.

[42] The following findings relate to Allegations 1 and 2 only:

- Sergeant Sarah Knelsen [Sergeant Knelsen] was Constable Freeman's supervisor;
- Mrs. D.M. provided Corporal Hollingsworth with information relative to her observations of Mr. Freeman's activities on her and Mr. G.M.'s property;
- Corporal Hollingsworth did not discourage Mrs. D.M. from sharing the information relative to her observations of Mr. Freeman's activities on her and Mr. G.M.'s property.

[43] The following findings relate to Allegations 2 and 3 only:

- Mrs. D.M. sent Corporal Hollingsworth numerous text messages on July 20, 2016;
- Mrs. V.F. attended the property owned by Mr. G.M. and Mrs. D.M. on July 20, 2016, during which a confrontation occurred between her and Mr. Freeman;
- Corporal Hollingsworth was not present at the property owned by Mr. G.M. and Mrs. D.M. when this confrontation occurred.

[44] Relative to Allegation 2, I found that Corporal Hollingsworth babysat Mrs. V.F.'s children for a time on July 20, 2016.

[45] Relative to Allegation 3, the Board found the following:

- The property owned by Mr. G.M. and Mrs. D.M. is situated in the jurisdiction of Kitscoty RCMP Detachment;
- Mrs. V.F. attended Corporal Hollingsworth's residence following the confrontation with Mr. Freeman at the property owned by Mr. G.M. and Mrs. D.M. on July 20, 2016.

[46] Finally, relative to Allegation 5, I found that Corporal Hollingsworth provided a statement to Sergeant John Lovie [Sergeant Lovie] on July 3, 2017.

Credibility of the witnesses

[47] Although I had the authority, pursuant to subsection 23(1) of the *CSO (Conduct)*, to decide this matter without hearing testimony, the investigation report and supporting material presented two very divergent pictures of what took place relative to the allegations. These two divergent positions gave rise to numerous serious and significant conflicts in the evidence. Consequently, the credibility of the various witnesses became a significant issue in this proceeding. Therefore, the ability to see and hear the witnesses assisted me in assessing their credibility. This was an important factor in my decision to hold an oral hearing and to hear all of the key witnesses.

The personal relationships of the primary actors

[48] Underlying all five allegations are the personal relationships of four couples, including Corporal Hollingsworth and Mr. Manj; Mr. Freeman and his estranged wife, Mrs. V.F.; Mr. D.R. and Mrs. D.R.; and Mr. G.M. and Mrs. D.M. These personal relationships are all intertwined because all of these people knew each other personally either directly or indirectly. The nature of these relationships is a significant factor in the evidence presented by the various witnesses in both their statements and their oral testimony. Therefore, an understanding of these relationships underlies the assessment of the credibility of the respective witnesses.

[49] These personal relationships were also entwined with the RCMP because all of the individuals involved in this matter had some connection, however loose, with the Force. All three of the other couples first met Corporal Hollingsworth and Inspector/Mr. Manj through their connection with the RCMP. The intertwining of the personal relationships with the RCMP is, in my opinion, at the core of this case. However, the link with the RCMP is not overly critical to the assessment of the credibility of the witnesses. Consequently, this aspect of the relationships will not be discussed further here.

[50] The relationship between Corporal Hollingsworth and Inspector/Mr. Manj and Mr. D.R. and Mrs. D.R. began shortly after Corporal Hollingsworth and Inspector/Mr. Manj arrived in Lloydminster during the summer of 2014. The association formed primarily because Mrs. D.R.'s

duties as the Detachment's Office Manager brought her into a close working relationship with Inspector Manj. This working relationship blossomed into a personal one between the two couples.

[51] The personal relationship was primarily between Mrs. D.R., Corporal Hollingsworth and Mr. Manj. According to Mrs. D.R., Mr. D.R. did not particularly like Corporal Hollingsworth and Mr. Manj, but associated with them because of Mrs. D.R.'s continuing involvement with them. The children of the two couples were the primary focus of the relationship, which developed into a friendship. According to Corporal Hollingsworth, the relationship between Mrs. D.R. and herself was so strong they were like sisters. The families shared meals once a month. The adults had cocktails together on a regular basis. Corporal Hollingsworth and her family even spent a weekend with Mr. D.R. and Mrs. D.R. at a cottage by the lake. The cottage was owned by Mrs. D.R.'s mother. According to Mrs. D.R., this weekend visit did not go too well.

[52] The relationship between the two couples began to deteriorate as Mrs. D.R. tried to distance herself from Corporal Hollingsworth and Inspector/Mr. Manj. This was due to Inspector/Mr. Manj's behaviour, both socially and at work. Following the Detachment Levee in November 2015, Mrs. D.R. and Corporal Hollingsworth had a private conversation in a bedroom of Corporal Hollingsworth's home (the "bedroom talk") during which Corporal Hollingsworth disclosed her suspicions about an ongoing relationship between Mrs. D.R. and Mr. Freeman. This conversation also contributed to Mrs. D.R.'s decision to move away from the friendship.

[53] The personal relationship between Corporal Hollingsworth, Mr. S.M., Mr. Freeman and Mrs. V.F. also had a significant child-centred focus. Although they did things together as families, the relationship between the two couples was one where the men had a closer relationship with each other than with the women, and the women had a closer relationship with each other than with the men. For example, the men played hockey together whereas the women's activities were more focussed around the children.

[54] Although the relationship between Corporal Hollingsworth, Mr. Manj and Mrs. V.F. continued and, in fact, was still ongoing at the time of the conduct hearing, this was not the case with Mr. Freeman. According to Constable Freeman, his relationship with Inspector/Mr. S.M. disintegrated because he lost trust in Inspector Manj due to a perceived breach of his trust. One night following a hockey game, Mr. Freeman apparently disclosed to Mr. Manj that he and Mrs. V.F. were

having marital problems and would be separating. According to Constable Freeman, this disclosure was intended to be kept secret. However, he subsequently learned that Inspector Manj had disclosed the information to Staff Sergeant Joe Wenisch [Staff Sergeant Wenisch]. He felt that Inspector Manj had no right to make this disclosure without his permission¹¹.

[55] Inspector Manj's "spin" on the conversation is that, following the disclosure of the marriage break up, he and Mr. Freeman also discussed the fact that, when he was off duty, Constable Freeman was permanently on-call at the level of operational readiness. Such an on-call arrangement has major implications on a member's personal life. Constable Freeman demonstrated this when he testified how his permanent status on operational readiness made the simple everyday task of grocery shopping difficult for him. According to Inspector Manj, he had concerns about this on-call arrangement. Consequently, he spoke with Staff Sergeant Wenisch and requested that Constable Freeman's on-call status be reviewed with a view to downgrading it to operational availability. Although still permanently on-call, operational availability is a less intrusive form of on-call to a member's personal life as it has a lower response threshold than operational readiness. (Note: Differing perceptions about the same incident, like this one, are repeated throughout this entire matter, as will be seen.)

[56] It appears that as the relationship between Mrs. D.R. and Mr. M.F. strengthened, the divide between Corporal Hollingsworth/Mr. Manj and Mrs. D.R./Mr. Freeman became more pronounced. Sergeant Knelsen testified that the breakdown of the relationship became so severe that it was commonly referred to by the various spectators as "Team Suki versus Team [Mrs. D.R.]". It was not difficult to ascertain from the statements and the oral testimony at the conduct hearing which "team sweater" the various witnesses were wearing. This distinction became very important to the evidence because the "team sweater" the witness was wearing dramatically affected their view of the evidence. This was reflected in both their witness statements and oral testimony at the hearing.

[57] Mr. G.M. and Mrs. D.M. had dealings with Inspector Manj through their various associations with the RCMP. Mr. G.M. and Mrs. D.M. had a strong personal relationship with the previous Officer in Charge of the Detachment. The relationship between Mr. G.M. and Mrs. D.M. and

¹¹ See Conduct Hearing Transcript, Volume 1, page 75, beginning at line 2.

Inspector Manj was strictly work related for quite some time. They met frequently at meetings where their interests coincided.

[58] Mr. G.M. and Mrs. D.M. met Corporal Hollingsworth at an RCMP event that was held to show the appreciation of the RCMP for local businesses that supported it. Mr. G.M. and Mrs. D.M. were recipients of an award that day. Corporal Hollingsworth's children were also at the event and were introduced to Mr. G.M. and Mrs. D.M.

[59] Although there was some contact between Corporal Hollingsworth/Mr. Manj and Mr. G.M./Mrs. D.M. outside of work, evidenced by the gift of exotic edibles made by Mr. G.M. and Mrs. D.M. to Corporal Hollingsworth's children in March 2016, the personal friendship between the two couples did not fully develop until June 2016. This was long after Corporal Hollingsworth and Inspector Manj arrived in Lloydminster and not long before they left. The personal friendship was still ongoing at the time of the conduct hearing with Mr. G.M./Mrs. D.M. having visited Corporal Hollingsworth/Mr. Manj after they moved back to British Columbia.

[60] Mr. G.M. and Mrs. D.M. also had a business relationship with Mrs. D.R. She was their contact at Lloydminster Detachment for various activities including their sponsorship of the Detachment Levee and other Detachment programs and the rental of a suite on their property to RCMP members.

[61] Mr. G.M. and Mrs. D.M. did not meet Mr. Freeman until just prior to him becoming their tenant in January 2016. Although they did not have a close relationship with Mr. Freeman, Mr. G.M. and Mrs. D.M. frequently brought him food, left him notes of encouragement and made invitations for him to join them for cocktails. They even reduced his rent by \$200.00 on their own accord.

[62] From their perspective, Mr. Freeman was a good tenant. He was quiet and kept to himself. He worked a lot. They were also frequently away, particularly in the winter months. This diminished their contact with him. They had met his children during their visits with their father at the suite and quite liked them. The relationship continued to go well even after Mr. G.M. and Mrs. D.M. began noticing odd activity by Mr. Freeman, which will be discussed further below.

[63] Mr. G.M. and Mrs. D.M. did not meet Mrs. V.F. until July 2016. Their friendship with Mrs. V.F. and her children continued and was still ongoing at the time of the conduct hearing.

Mrs. V.F. and her children had gone on holiday to Hawaii with Mr. G.M. and Mrs. D.M. Mr. G.M. and Mrs. D.M. also visited Mrs. V.F. to deliver her personal property after she left Lloydminster.

[64] Mr. G.M. and Mrs. D.M. did not know Mr. D.R. personally, but knew his extended family through their family business. This comes into play as one of the reasons Mr. G.M. and Mrs. D.M. provided for recording their observations of Mr. Freeman's activities on their property.

[65] I can now move on to my assessment of the credibility of the individual witnesses.

Assessment of credibility – Mrs. D.R.

[66] As previously noted, although Mrs. D.R. was present at the conduct hearing, she did not testify. Consequently, I was left to consider the two statements provided by her during the various investigations. Neither statement is sworn.

[67] The first statement was provided to Sergeant James Morton [Sergeant Morton] on October 18, 2016. It was obtained in relation to the Public Complaint filed by Mr. G.M. and Mrs. D.M. against Constable Freeman. There were a number of aspects to the complaint, with the primary one being the alleged assault on Mrs. V.F. by Mr. Freeman during the incident on their property on July 20, 2016. Despite the purpose of the statement, much of the information Mrs. D.R. provided related to Inspector Manj. Very little of the statement has anything to do with Corporal Hollingsworth. Although she does speak about a telephone call with Corporal Hollingsworth that occurred on May 19, 2016, which has some bearing on this case.

[68] The statement has virtually no value in relation to the July 20, 2016, incident on the property of Mr. G.M./Mrs. D.M. Mrs. D.R. clearly indicates that, although present at the time, she saw nothing. She heard yelling, but was unable to discern what was being said. In fact, she said that she did not even know for sure that Mrs. V.F. was the second party to the "yelling match". The remainder of what she says regarding the incident is information she received from Mr. Freeman, so it is hearsay and of no value to this proceeding.

[69] The second statement was provided to Inspector Donovan Fisher [Inspector Fisher] and Staff Sergeant Craig Toffoli [Staff Sergeant Toffoli] on November 30, 2016. This statement was provided in connection with a harassment investigation into Inspector Manj. Again, this statement speaks

predominantly about the actions of Inspector Manj and contains very little about Corporal Hollingsworth. Much of what she said is information that she obtained from others. So again, it is hearsay and of no value to this proceeding. Again, Mrs. D.R. does speak about the telephone call with Corporal Hollingsworth on May 19, 2016.

[70] Based on the foregoing, the statements provided by Mrs. D.R. add very little to my decision.

Assessment of credibility – Constable Freeman

[71] From his testimony, it was very apparent that Constable/Mr. Freeman is very bitter about what took place. He blames Corporal Hollingsworth/Inspector/Mr. Manj and Mr. G.M./Mrs. D.M. for being financially destitute; for destroying his relationship with Mrs. V.F.; for losing time with his children; for missing out on promotions; for the stress he faced which resulted in the loss of 50 pounds; for Mrs. D.R.'s existing medical condition; and for his loss of trust in the RCMP and its members. It was also clear that he has failed to accept any responsibility for his personal decisions and actions in this matter. Instead, he blames everyone else. These two factors combined have obviously skewed his view of what took place, a view which is articulated in his statements and oral testimony.

[72] I have difficulty with a number of things that he said. I will provide a few examples here and address the remainder as they arise later in my decision.

[73] The first example stems from Constable Freeman's claim that during the July 20, 2016, confrontation between himself and Mrs. V.F. at the property owned by Mr. G.M. and Mrs. D.M., he was forced to grab Mrs. V.F. because she had pushed past him and had already gone up two stairs leading to the suite. He said in one of his statements, but not in his testimony, that Mrs. V.F. was on her way up the stairs intending to assault Mrs. D.R.

[74] He testified that he is approximately five feet ten inches tall and was well over two hundred pounds at the time of the incident, whereas Mrs. V.F. is about five feet three inches tall and weighs about one hundred and forty pounds. He was standing in the doorway blocking it. The last thing he wanted was for Mrs. V.F. to see Mrs. D.R. at the suite, let alone have a confrontation between the two of them. In addition to being very upset, he would have been in a heightened state of awareness and on guard to protect against this.

[75] His account of what happened does not have an air of reality, whereas Mrs. V.F.'s version does. She simply states that they were arguing. She took a step towards him for some unknown reason and he grabbed her by the arms to prevent her from entering the suite. This occurred outside the building. This makes more sense and accords with the evidence of others like Mr. G.M. who witnessed the incident, albeit at a distance.

[76] Not so much in his testimony, but clearly in his statements, Constable Freeman jumped to some major conclusions without any supporting evidence. One glaring example appears in the statement he provided to Sergeant Morton on October 18, 2016, beginning at line 1430:

Q: So-so from your perspective here right now tell me all the people that did things wrong in this situation?¹²

A: Well you know what's it gonna be – I guess the problem with this is that everything that we've heard and been told and that kind of stuff lots of its third hand.

Q: Okay.

A: Like so I don't know who told who that.

Q: Right.

A: I don't know if people are running licence plates. I don't know who was recording licence plates, I don't know if I was being followed in my vehicle, like I ...

Q: Why would you say that?

A: Um ...

Q: That you were being followed in your vehicle?

A: ... you know cause what I assumed at one point that we were based when um when I realized that [Mr. G.M. and Mrs. D.M.] were documenting, that sort of thing. Um there's a conversation that took place in the office and [Mrs. D.R.] told me about this bit it was Suki, or no Tammy was in Sarah's office saying, "we're gonna find out about that maroon car. We're gonna find out about that maroon car." And that was in front of Sarah. Um, so yeah I'm sorry this bringing back some information I should –

Q: No its all good.

A: I should have included but ... right then I'm like there's only been one person to my place in a maroon car and it was [Mrs. D.R.] so how did they know there was a maroon car at my place right? So that got me thinking, I thought you know what – I thought I was being followed so much that I was

¹² The manner in which this question is worded is of significance and will be addressed further below.

doing heat checks in a police car on my way home from work to see if someone was following me to my house.

Q: At the risk of

A: Oh there – sorry there’s another thing, um [Mrs. D.R.] had a conversation with Suki well into this and um Suki said something about, ‘Well what about the photos?’ ‘What photos?’ That means indicating someone was taking photos.

Q: Mm hmm.

A: Right and at that point we’re being followed. Someone’s following us.

Q: Yeah

A: Someone’s documenting us like I don’t know.

Q: No definitely documenting. I – I don’t think it ever went ever so – I don’t believe I – I haven’t heard anything that would suggest it went so far as being followed.

A: Sarah Knelsen indicated to [Mrs. D.R.] once that she believed, Suki’s friend [friend’s first name] from [business name] may have been following us. I don’t know where she got that. I don’t know if there’s truth to it but ...

[77] This is only one example where Constable/Mr. Freeman’s bitterness obviously clouded his view of the evidence.

Assessment of credibility – Sergeant Knelsen

[78] Sergeant Knelsen’s relationship with everyone involved in this matter was almost exclusively through work. It is clear that Sergeant Knelsen’s alliances were with Mr. Freeman and Mrs. D.R. It is also clear that she maintained a significant degree of animosity towards Corporal Hollingsworth and Inspector Manj. Her dislike of Corporal Hollingsworth and Inspector Manj appears to stem from her belief that they had “set up” Mr. Freeman and Mrs. D.R. This belief was not formed from facts, but from three very significant “quantum leaps”.

[79] With respect to the first “quantum leap”, Sergeant Knelsen testified that she was told by someone that Mr. Manj had arranged for surveillance to be conducted on Mr. Freeman and Mrs. D.R. by a local tow truck driver. She believed this to be true, despite the fact that, as she admitted in her testimony, she had no proof to substantiate the belief. Her belief in this was so strong that she passed this information on to Mr. Freeman and Mrs. D.R., which led them to believe that this was

how Corporal Hollingsworth and Mr. Manj, and subsequently Mrs. V.F., knew so much of what they were doing.

[80] The second “quantum leap” arises from a conversation she overheard during a drive to Inspector Manj’s “going away” party. This took place on July 20, 2016, the same day as the incident on the property of Mr. G.M. and Mrs. D.M. She was a passenger along with Corporal Hollingsworth in a vehicle driven by Inspector Manj. According to Sergeant Knelsen, Inspector Manj made a comment prior to arriving at the venue that he had a feeling that something was going to happen and that he was sick to his stomach about it. Corporal Hollingsworth made a similar comment in agreement with him. The next day, after having heard from Constable Freeman the evening before about the incident on the property of Mr. G.M. and Mrs. D.M., she came to the revelation that Inspector Manj and Corporal Hollingsworth were talking about the incident while they were in the car on the way to the going away party. This was before the event occurred, suggesting that they had advanced knowledge of what was going to happen later in the day. To her, this was clear evidence that Corporal Hollingsworth and Inspector/Mr. Manj had set up Mr. Freeman and Mrs. D.R. on July 20, 2016. Again, she had no evidence to support this theory. She simply made the “quantum leap”.

[81] Inspector Manj testified about these comments and provided a perfectly rational explanation. His explanation was supported by Corporal Hollingsworth. He explained that his comments were made when he was about to go into the venue for his going away party. Almost everyone at the party knew why he was being transferred from Lloydminster Detachment despite having promised he would be there for another year. In his mind, he was walking into the proverbial lion’s den. He was sick to his stomach because he knew that he had to put on a professional front and say all the right words about his departure during his speech. I accept that this was a situation that would have reasonably caused Inspector Manj considerable anxiety.

[82] The third “quantum leap” comes from a conversation Sergeant Knelsen had with Corporal Hollingsworth. This conversation is one of the few aspects of this case that has a direct connection with the workplace, simply because that is where the conversation took place. However, the conversation itself was not about a work-related matter, but rather the personal relationship between Mr. Freeman and Mrs. D.R. Corporal Hollingsworth simply commented that Mrs. V.F. was going to find out about the relationship between Mr. Freeman and Mrs. D.R. This was not an unreasonable

comment and is certainly not evidence that Corporal Hollingsworth had advanced knowledge of what eventually happened on July 20, 2016, at the property owned by Mr. G.M. and Mrs. D.M. as Sergeant Knelsen interpreted the comment to be.

[83] At this time, there was a rumour already going around the office. Constable Freeman testified that the rumour spread very quickly through the office. Lloydminster is not a large community. Matters of infidelity, fact or fiction, tend to get talked about in small towns. RCMP members are high-profile members of small communities. Therefore, they are often in the public gaze. So, any hint of infidelity involving an RCMP member in the community would be a rather juicy topic for rumours and gossip. Additionally, RCMP members themselves are notorious gossips. When considering these facts, simple logic would dictate that it was only a matter of time before the relationship between Mr. Freeman and Mrs. D.R. became known to Mrs. V.F. Instead, Sergeant Knelsen formed the belief that Corporal Hollingsworth had knowledge of the impending incident, which occurred on July 20, 2016, on the property owned by Mr. G.M. and Mrs. D.M. To her, this was further evidence that Corporal Hollingsworth and Inspector/Mr. Manj had set up Mr. Freeman and Mrs. D.R. that day.

[84] Given this series of “quantum leaps”, the testimony of Sergeant Knelsen must be viewed with caution.

Assessment of credibility – Mr. G.M. and Mrs. D.M.

[85] Mr. G.M. and Mrs. D.M. are life-long residents of Lloydminster. They operate a family business that has spanned several generations and has been in operation for over 70 years. The business is service oriented. It operates in Lloydminster and a small neighbouring community about an hour drive from Lloydminster. Mrs. D.M. also operates her own leadership consulting business.

[86] In addition to their private business interests, Mr. G.M. and Mrs. D.M. were heavily involved in the community. They were prominent members of a local service club with international scope. Mrs. D.M. was also the Executive Director for an organization involved in the prevention of family

violence for “the better part of her life”¹³. They are people who are ordinarily described as “pillars of the community”.

[87] Mr. G.M. and Mrs. D.M. were also friends of the Force. They supported new RCMP programs and even purchased or sponsored a new vehicle for the Citizens on Patrol Program. They were also corporate sponsors of the annual Detachment Levee for a number of years. However, Mr. G.M. testified, this support was withdrawn because of this matter.

[88] The housing market in Lloydminster is quite volatile because of the community’s close link to the fluctuating oil industry. Consequently, affordable housing for RCMP members was not always available. In light of this, Mr. G.M. and Mrs. D.M., of their own volition, made a suite over the garage on their property available to RCMP members in need. Several members availed themselves of this opportunity, without incident. Mrs. D.R. was the RCMP office contact for the rental opportunity.

[89] Although Mr. G.M. and Mrs. D.M. had a significant public face, they moved to their current residence 20 years ago. Their reason for living there is for the privacy it affords them.

[90] Mr. G.M. and Mrs. D.M. were clearly allied with Corporal Hollingsworth and Mr. Manj. The couples remained in touch with each other to the date of the conduct hearing. They have also been to visit Corporal Hollingsworth and Mr. Manj since they left Lloydminster Detachment.

[91] There are certainly discrepancies in their testimony. One of the most significant relates to the photograph of a maroon car on their property. The accounts of Mr. G.M. and Mrs. D.M. are very similar as to when and why the picture was taken. They are consistent on this throughout their statements, their complaint to the Civilian Review and Complaints Commission for the RCMP and in their testimony at the hearing. Mr. G.M.’s statement provided to Sergeant Morton was in relation to their Public Complaint. This was about Constable Freeman’s actions on July 20, 2016. Given this, I do not think that a lay person would have anticipated being asked questions about his own actions long before the incident on July 20, 2016, because this was not relevant to his complaint. Therefore, he would not have had enough foresight to concoct such an elaborate explanation of the photograph prior to providing his statement.

¹³ See Conduct Hearing Transcript, Volume 2, page 354, lines 21 – 24.

[92] The timing of the photograph and the text messages surrounding it does not accord with what Mr. G.M. and Mrs. D.M. said about the photograph, but I am sure there is a rational explanation that we have not touched on.

[93] Mr. G.M. and Mrs. D.M. testified that their primary reason for beginning to record the activities of Mr. Freeman on their property was to protect their family business. It is evident that protecting the family business was very important to them. It is a small business and they are the public face of the business. It was clear that maintaining their personal integrity was of great importance to ensure the continuing success of the business. I find it difficult to believe that Mr. G.M. and Mrs. D.M. would risk damage to their personal integrity by having an RCMP conduct board, in a public hearing, find that they were not being truthful.

[94] Both Mr. G.M. and Mrs. D.M. were very confident and appeared forthright in their testimony. I found both of them to be highly credible.

Assessment of credibility – Mrs. V.F.

[95] Despite what took place between them, Mr. and Mrs. Freeman appeared to have a continuing and cordial relationship, which appears to exist primarily for the sake of the children.

[96] Mrs. V.F. was friends with Corporal Hollingsworth and remained so at the time of the conduct hearing.

[97] Mrs. V.F. is a teacher by profession. She was well spoken and confident in her testimony. Her answers were consistent with her statements and other evidence. There was nothing controversial or contentious in her testimony. I found Mrs. V.F. to be a credible witness.

Assessment of credibility – Corporal Hollingsworth

[98] Corporal Hollingsworth had an obvious vested interest in the outcome of this proceeding. Nevertheless, she appeared to be forthright and attempted to answer the questions put to her to the best of her ability. During cross-examination, she clearly became frustrated with the questions posed by the Conduct Authority Representative. She was having to repeat the same answers numerous times because she was being asked questions that required the same answer. Although she did get

her hackles up at times, she was not confrontational. She made various admissions and concessions in her subject 15(3) *CSO (Conduct)* submission and in her testimony.

[99] In her testimony, Corporal Erin Folk [Corporal Folk], who was one of the Code of Conduct investigators, provided comment on certain observations she made about Corporal Hollingsworth during her investigation. She felt that Corporal Hollingsworth was “eager to tell us everything she knew to her own detriment. [...] She was honest even when the truth was not showing her in the best light.” She also testified to the caution added at the end of her report. These comments were intended to be for the information and attention of the Conduct Authority. The purpose of the caution was to alert the Conduct Authority to the fact that she was not certain who was telling the truth out of the many witnesses she had interviewed during the investigation. She felt many of the witnesses were “dodging their responsibility for their own actions, which were pretty bad in spots”. She felt that Corporal Hollingsworth was the most honest witness of all the witnesses that she and Sergeant John Spaans [Sergeant Spaans] interviewed during the investigation. I am not bound to accept Corporal Folk’s assessment, but note that I reached similar conclusions on my own. This is based on the comments Corporal Hollingsworth made in her statement, her demeanour at the conduct hearing and other corresponding evidence.

[100] I note that Corporal Hollingsworth voluntarily provided the many text messages that are in evidence before me and, as she noted, are now being used against her. The investigators would have been required to obtain a production order had she not done this. An issue arose during Corporal Hollingsworth’s testimony in which it was discovered that she had not provided all of the text messages in her possession. I do not believe this was intentional as there appears to be nothing significant in them. I do not see this to be any different than the gaps in the Conduct Authority Representative’s provision of information, also discovered during the conduct hearing. As I understand her explanation, she provided the investigators with what she thought she had agreed to provide.

[101] I found Corporal Hollingsworth to be a credible witness.

Assessment of credibility – Inspector Manj

[102] As the husband of Corporal Hollingsworth, Inspector Manj also had a vested interest in the outcome of this proceeding. He is the subject of his own conduct proceeding which, in part, relates to this proceeding. His testimony was not extensive. He was very professional. He appeared to be forthright in his answers. I found nothing contentious in his testimony or the manner in which it was delivered. I found Inspector Manj to be a credible witness.

Assessment of credibility – Mr. D.R.

[103] Mr. D.R. was totally indifferent when he provided his statement to investigators and in his testimony at the conduct hearing. He clearly did not want to be at the conduct hearing. His indifference appears to have resulted in significant memory lapses or indications of his inability to recall details in both his statement and his testimony.

[104] He did mention in one of his statements that he formed the opinion that Corporal Hollingsworth and Mr. Manj were out to get Mrs. D.R. thereby indicating a leaning towards supporting Mrs. D.R. Nevertheless, I found him to be credible in the limited bits of relevant evidence he provided.

Assessment of credibility – Sergeant Morton

[105] Although Sergeant Morton did not testify at the conduct hearing, he had an impact on the issue of the credibility of the witnesses and, quite frankly, the integrity of the investigation as a whole. As the investigator of the Public Complaint against Constable Freeman, he obtained many of the witness statements found in the Record. These statements were obtained in relation to the Public Complaint made by Mr. G.M. and Mrs. D.M. against Constable Freeman.

[106] I am including a comment on Sergeant Morton in this decision because I believe his approach to the various witnesses had implications on the credibility of the witnesses who provided statements or, at the very least, influenced their content.

[107] Several witnesses testified that Sergeant Morton had an “agenda” other than the stated purpose of the statements. Several witnesses indicated that, upon the completion of their statement, Sergeant Morton shut off the tape recorder and began interviewing them about Inspector Manj There

is one particular comment that jumped out in this regard. It was made by Mr. G.M. during his testimony¹⁴ and reads:

A: I do remember one thing that he did say at the end of the interview that we had hitched our cart to the wrong horses, implying that there were sides that were taken and we were on the wrong side.

[108] When asked by the Conduct Authority Representative, each of the witnesses agreed that, despite Sergeant Morton's agenda, the contents of their statements were accurate. Although the statements may be accurate in terms of what the witnesses said, the manner in which Sergeant Morton approached the interviews had significant implications on the contents of the statements.

[109] For example, the question that I drew attention to previously (see Footnote 11) is a clear example of Sergeant Morton's bias and how it influenced the statements, keeping in mind that the statement from Constable Freeman was obtained in relation to a Public Complaint made against him, yet Sergeant Morton asked Constable Freeman to tell him what everyone else did wrong in relation to the situation.

Assessment of credibility – Corporal Folk

[110] Corporal Folk's testimony was very brief. It was obvious that she had some affinity for Corporal Hollingsworth. Nevertheless, I found no issue with her testimony and found her to be a credible witness.

Additional factors affecting credibility

[111] There is one other additional factor impacting on the credibility of the witnesses. Hundreds, if not thousands, of individual text messages that involve communications between Corporal Hollingsworth and Mrs. D.M. and Corporal Hollingsworth and Mrs. V.F. are in evidence before me.

[112] I was reminded several times by the Member Representative that, when the text messages were made, they were intended to be private conversations. Given the messages were only intended for the parties involved in the "conversation", considerable stock can be placed in their contents as it

¹⁴ See Conduct Hearing Transcript, Volume 2, page 66, lines 19 – 23.

is not likely that the messages are manufactured or otherwise misleading. However, as the Member Representative mentioned, caution must be used in interpreting the contents of the text messages.

[113] Text messages are designed to be a quick form of communication intended to convey simple messages. As Corporal Hollingsworth testified, they were being sent in rapid succession as the events of the July 20, 2016, incident on the property of Mr. G.M. and Mrs. D.M. unfolded. Therefore, not a lot of thought is usually put into them when they are being drafted. In other words, the words are not carefully chosen.

[114] Another caution I make, particularly because text messages are at the heart of three of the allegations, is that the single messages cannot be examined in isolation. They must be examined in the context of all of the evidence; to do otherwise can only lead to misinterpretations.

[115] I will now move on to my analysis of the allegations, dealing with each one separately.

Evidence and findings – Allegation 1

[116] The first allegation is under section 3.2 of the Code of Conduct and reads as follows:

Allegation 1

On or between November 26, 2015, and August 4, 2016, at or near Lloydminster in the Provinces of Alberta and Saskatchewan, Corporal Tammy Hollingsworth, failed to act with integrity, fairness and impartiality, and did compromise or abuse her authority, power or position, contrary to section 3.2 of the Code of Conduct of the Royal Canadian Mounted Police.

Particulars of the contravention:

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted to Lloydminster RCMP Detachment in “K” Division.
2. [Mrs. D.R.] was a municipal employee at Lloydminster RCMP Detachment. You were close personal friends with [Mrs. V.F.] and deliberately decided to become involved in her personal marital issues. [Mrs. V.F.] was the estranged spouse of Cst. Mark Freeman (“Cst. Freeman”). Cst. Freeman is the RCMP dog handler posted to Lloydminster Detachment and supervised by Sergeant Sarah Knelsen.
3. You purposefully abused your position, power and authority as a regular member of the RCMP by deliberately gathering detailed knowledge with respect to the work schedule and overall whereabouts of Cst. Freeman. Your ability to gain a detailed knowledge of Cst. Freeman’s work practices

was only possible because of the fact that you worked in the same office as him and also because you relied upon knowledge that you gained from your husband – Inspector Sukhjot Manj – who was the OIC of the Detachment.

4. Cst. Freeman was residing in a rented room on the property of [Mr. G.M.] and [Mrs. D.M.]. You compromised your fairness and impartiality by conspiring with both [Mr. G.M.] and [Mrs. D.M.] to have them actively seek out and learn intimate details of the private life of their renter Cst. Freeman. The surveillance conducted by [Mrs. D.M.] included: making detailed notes of times of arrival and departure of both a female visitor and Cst. Freeman; a detailed description of a female visitor; the taking of pictures of a vehicle; items Cst. Freeman purchased for his residence (mattress) and the recording of licence plates. This information was gathered with your full knowledge and encouragement.
5. You had no legitimate operational reason to gather information with respect to the work habits (including on-call), training schedule and locations, or times away from work of Cst. Freeman. You would in turn pass along details of both Cst. Freeman's work practices and private life to [Mrs. V.F.]. Through your actions you failed to act with integrity, fairness and impartiality and ultimately invaded the privacy of both Cst. Freeman and [Mrs. D.R.].
6. The underlying motive as to why you purposefully became involved in both the work schedule and private affairs of Cst. Freeman and [Mrs. D.R.] was that you simply could not accept that he and [Mrs. D.R.] were involved in a close private relationship. Your deliberate quest to gather evidence to expose the relationship was amplified by your loyalty to [Mrs. V.F.].

[117] My findings in the *Determination of Established Facts* address Particulars 1, 2, the last sentence of Particular 3 and the first sentence in Particular 4. These particulars merely provide context to the remaining salient particulars. What remains in the particulars are the bulk of Particulars 3, 4 and all of Particulars 5 and 6.

Failed to act with integrity, fairness and impartiality and did compromise or abuse her authority, power and position

[118] Before I move into my analysis of the remaining particulars, I wish to examine the overarching allegation that Corporal Hollingsworth failed to act with integrity, fairness and impartiality and did compromise or abuse her authority, power or position. This analysis applies particularly to both Allegations 1 and 2.

[119] Earlier, I mentioned that the intertwining of the personal relationships with the RCMP is, in my opinion, at the core of this case. The connections with the RCMP and the primary actors in this matter were previously set out; therefore, they will not be repeated here.

[120] There was a time in the RCMP when the RCMP was not only a member's job or career, it was your life and that was what was expected of you as a member. Today, the RCMP aggressively promotes what is commonly referred to as "work-life balance", which is a clear indicator that there is a distinction between a member's work life and a member's personal or off duty life. But no matter how aggressively this concept is pursued, employment with the RCMP is such that it often creeps into an employee's personal life and, like any other workplace, the employee's personal life makes its way into the workplace. I can assure you that when members go for coffee at work, they are not talking about how the latest Supreme Court decision affects their work. They do talk work, but for the most part, they talk about their significant others, their children, their pets, the latest TV shows, last night's hockey game, their new car or their latest "toy".

[121] Despite the various cautions in the current RCMP harassment in the workplace training material, members also talk about personal relationships with their co-workers, often in ways that can be categorized as gossip.

[122] There are jobs in the RCMP where the incumbent can shut off the computer, close the office door and go home for the day, and that is it. Their work does not enter back into their life until they walk back through the office door the next morning. There are other jobs in the RCMP, like Constable Freeman's, as a dog handler, or Inspector Manj's, as an officer in charge of a large detachment, when the job is so highly intrusive on the member's personal life that it almost rules it. Most of the jobs in the Force fall somewhere in between. But, technology, like the BlackBerry, have made work encroachments into a member's personal life far easier to occur than they once were.

[123] Obviously, the more intrusive the member's work life is into the member's personal life, the more blurred the line between on duty and off duty becomes. This is further compounded when a married couple are both members. Corporal Hollingsworth aptly summed this issue up during her testimony with the following statement:

A: My husband told me. I don't know where we need to separate that he is my husband. When are we Tammy and Suki and when are we [Corporal Hollingsworth] and Inspector Manj.?¹⁵

[124] So, in this context, is the typical post-work conversation between husband and wife about how their respective days went a personal conversation or a work conversation? Is this off-duty conversation subject to the Code of Conduct or does it depend on what was talked about?

[125] There is no doubt the Code of Conduct applies to members when they are off duty¹⁶. This is proper and coincides with the member's agreement to abide by a higher standard than that expected of the ordinary citizen¹⁷. But the RCMP does not and cannot "own" a member 24/7 in everything they do. So, Corporal Hollingsworth's question is a very good one. There has to be a line, but where is it? The parties have not told me what their position is on this.

[126] Corporal Hollingsworth repeatedly said in her statements and in her testimony that what she was doing, as it related to the allegations, was duty-related. However, neither she nor the Member Representative has identified what part of her actions were duty-related or why she felt they were. Corporal Hollingsworth was mindful of the fact that there was a line that she could not cross. In some cases, she was very clear where that line was. For example, she was very quick to say that she could not use RCMP data bases to determine the owner of the maroon car with the Saskatchewan licence plates photographed by Mr. G.M. and Mrs. D.M. on their property. During the Code of Conduct investigation, various checks were conducted to determine if Corporal Hollingsworth used RCMP data bases to make inquiries related to this matter. These checks confirmed she had not.

[127] In several instances in the text messages, Corporal Hollingsworth said she would follow up on certain things, possibly through work or that she would ask Mr. Manj. For the most part, the "commitments" appeared to be mere dodges to avoid responding to what was being asked of her rather than agreements to do the work-related activity. For example, at page 738 of the investigation binder, Mrs. D.M. said it would be nice if they knew where Mrs. D.R.'s mother lived. Corporal Hollingsworth said she will, "see what I can do", but there is no evidence Corporal Hollingsworth

¹⁵ Conduct Hearing Transcript, Volume 5, page 68, line 3.

¹⁶ See section 1 of the Code of Conduct.

¹⁷ See *The Queen v White*, [1956] SCR 154 at 158.

followed up on this or that she had any intention of doing so. In fact, it was Mrs. D.M. who took the initiative to check publicly available information to find out where Mrs. D.R.'s mother lived.

[128] Furthermore, the simple fact that Corporal Hollingsworth asked Mr. Manj about something does not mean that he obtained the information being sought through work. For example, information he had about Mrs. D.R.'s mother's cabin at the lake or who owned the red truck at the property of Mr. G.M. and Mrs. D.M. on July 20, 2016, likely came from the personal relationship with Mr. D.R. and Mrs. D.R. and not from work. The Conduct Authority has not established the source of much of this information.

[129] The Conduct Authority, by bringing the allegation, was claiming that this was duty-related, but the Conduct Authority Representative has not told me why I should find that it is. I have been told what a member's duty is when she or he is on duty, but I have not been told specifically why the Code of Conduct should apply to the circumstances of this case. The particulars are somewhat suggestive of what their position is, but I have not been told specifically how Corporal Hollingsworth is to have abused her position as a member of the RCMP when she acted during this entire matter almost exclusively as a private citizen and while off duty.

[130] I was not told how Corporal Hollingsworth abused her position generally as a member of the RCMP or specifically as a corporal in charge of the Crime Reduction Unit at Lloydminster Detachment. Nor was I told what power(s) Corporal Hollingsworth abused as an off-duty member or how she abused it/them.

[131] I was also not told why Corporal Hollingsworth was obliged to be impartial in the circumstances of this case or how any actual or perceived impartiality affected her ability to perform her duties. Again, for the most part, she was off duty acting in a personal capacity. In this capacity, members act impartially all of the time. They choose to purchase specific products over others which is of no concern to the RCMP. They choose to have certain friends which, if these friendships do not impact the member's security clearance or otherwise impact on their ability to do their job, is not the concern of the RCMP. So why is this case different?

[132] This case is all about the personal relationships of Mr. M.F., Mrs. V.F. and Mrs. D.R., as I was reminded on several occasions by Mr. Freeman. Although Mr. Freeman and Mrs. D.R. were

employees of the RCMP or working under an RCMP Detachment roof, they were, throughout this entire matter, acting in their personal capacity. The break-up of the marriages of Mr. and Mrs. Freeman and Mr. D.R./Mrs. D.R. were personal matters totally unrelated to the RCMP.

[133] The relationship between Mr. Freeman and Mrs. D.R. had potential implications with the RCMP *Conflict of Interest – Reporting of Interpersonal Relationships* policy. There is evidence that during a telephone call between Corporal Hollingsworth and Mrs. D.R., on May 19, 2016 (previously referred to), Corporal Hollingsworth implored Mrs. D.R. to disclose her relationship with Constable Freeman to Inspector Manj because, as the Officer in Charge of the Detachment, he needed to ascertain if Mrs. D.R. and Constable Freeman were in violation of the RCMP Conflict of Interest policy. No issue was raised that the relationship did not fall under the policy, so once it was determined that the relationship was outside the policy and was not reportable, provided Mrs. D.R. and Constable Freeman did not bring their relationship into the workplace in some way that would make it RCMP business, it was a personal relationship with no connection to the RCMP other than their respective employment.

[134] Corporal Hollingsworth's friendship with Mrs. V.F. was a purely personal friendship with no connection to the RCMP. Corporal Hollingsworth was asked repeatedly by her friend about what she knew about the personal relationship between Mr. Freeman and Mrs. D.R. She was asked these questions as a friend and not as a member of the RCMP. She responded as a friend and not as a member of the RCMP. Any links to the RCMP and Corporal Hollingsworth's duties are tenuous.

[135] During the "bedroom talk", Corporal Hollingsworth was told a secret by Mrs. D.R. about her personal relationship with her husband and asked to keep it a secret. The secret Corporal Hollingsworth was asked to keep from her husband was as a friend and not as a member of the RCMP. Corporal Hollingsworth made inquiries and was assured that the secret did not involve criminal activity. Therefore, the secret and the keeping of it was a purely private matter between Corporal Hollingsworth and Mrs. D.R.

[136] Corporal Hollingsworth's friendship with Mr. G.M. and Mrs. D.M. was a personal friendship with no connection to the RCMP other than that which I have already indicated.

[137] The friendship between Mr. D.R./Mrs. D.R. and Corporal Hollingsworth/Mr. Manj and the subsequent deterioration of that friendship was a personal matter not connected to the RCMP other than what was heard about Inspector Manj's actions, which is a totally separate matter to this one.

[138] Corporal Hollingsworth was told not to get involved in this matter by her husband, Mr. Manj. She does not deny this, but was she told this by Mr. Manj, her husband, or was she told this by Inspector Manj, the Officer in Charge of Lloydminster Detachment? The Conduct Authority Representative would have me adopt the latter, but there is no evidence to indicate either way.

[139] If Corporal Hollingsworth was told by Mr. Manj, her husband, what obligation did she have to "obey" and if she did not listen to him, what concern was it for the RCMP? Mr. Manj told her in the context of their personal relationship to stay out of matters that related to the personal affairs of others and not directly related to the RCMP. Even if she was told by Inspector Manj, the Officer in Charge of the Detachment, was she obliged to "obey"? Was it an order or just strong advice? If it was an order, was it lawful, keeping in mind that it did not specify that she not get involved for work-related reasons or for personal ones. Does an order that has no apparent direct connection to the RCMP apply to a member's personal life?

[140] With a few minor exceptions, all of Corporal Hollingsworth's communications with private citizens occurred outside the workplace on her personal communications device.

[141] The actions of Mr. Freeman and Mrs. D.R. on the property owned by Mr. G.M. and Mrs. D.M. related to their personal relationship, which had no connection to the RCMP, except the incident on July 20, 2016. This connection only arises because Constable Freeman's off-duty conduct, which was described as a domestic violence situation, brought the Code of Conduct into play.

[142] Although Corporal Hollingsworth may have acquired information through her connection with work, which occurs in any workplace, there is no evidence that Corporal Hollingsworth went out of her way to obtain the information. Some of this information was directly related to her personal life, because she often looked after the Freeman children when Mr. Freeman was unable to do so. This was demonstrated by a text message found at page 674 of the investigation binder, which reads, in part, as follows:

Well Mark won't babysit the kids tonight so [Mrs. V.F.] could go to her year end teacher party so I have them overnight here. Not sure what it is that he is doing that is more important or why he was too busy but we are always happy to help a friend. She deserves a break!! Uh oh .. here comes that white fang again!! Tee hee!!

[143] In circumstances such as these, Corporal Hollingsworth had every right, in her personal capacity, to know what Mr. Freeman was doing, whether it was work-related or not, in order to properly plan and organize her personal affairs.

[144] Rumours about the relationship between Mr. Freeman and Mrs. D.R. surfaced at the office in January 2016. There is no evidence that Corporal Hollingsworth had anything to do with this rumour. In fact, there is clear evidence that it was started by another member. The rumour became known as the "Ricki Rumour". Constable Freeman was specifically asked by Inspector Manj if he wished to do anything about the rumour at the time, but he declined any further action.

[145] In fact, one of the only two conversations in this matter that occurred at the workplace involving Corporal Hollingsworth stemmed from this rumour. Corporal Hollingsworth met with Constable Freeman to assure him that, in light of the rumour, if Mrs. V.F. should find out about his relationship with Mrs. D.R., it was not because of her. She had said nothing to Mrs. V.F. nor did she have any intention of saying anything directly to her about what she knew and suspected.

[146] In addition, Emergency Services personnel outside the RCMP were also aware of the relationship and were discussing it publicly. There is no evidence that the information they possessed came from Corporal Hollingsworth.

[147] Everything significant with respect to this entire matter relates to the personal affairs of the individuals involved in their personal capacity. The only link to the RCMP is that, in their work life, several of them were either members or otherwise employed by the RCMP. I do not think that the Code of Conduct is automatically engaged just because a member is involved in matters that are exclusively of a personal nature. The status of a marriage or a personal relationship is a purely personal matter. Simply because these relationships happen to involve people that are also members of the Force or otherwise employed by the RCMP, like Mrs. D.R. as a municipal employee, does not necessarily make it the business or concern of the RCMP. The key is the activities undertaken in these personal relationships and how they relate to their employment with the RCMP and not simply

the employment of the people involved other than Corporal Hollingsworth. I ask, if Mr. Freeman was a private dog walker or trainer and not an RCMP dog handler and if Mrs. D.R. was simply an employee of the Town of Lloydminster not working in the RCMP office, would the conduct process have been engaged? My instincts and experience tell me that it is likely that it would not.

[148] So, I ask again, how do the circumstances of this case warrant the RCMP seeking to administer conduct measures for Corporal Hollingsworth's involvement in this matter? There needs to be a sufficient nexus to the employment situation to warrant sanctions and I am not seeing that nexus based on the evidence that is before me. This is entirely about the personal affairs of members of the RCMP acting exclusively in their personal capacity. As my further analysis will show, the particulars do not bring me any closer to demonstrating that nexus.

Particular 3 – Deliberate gathering of detailed knowledge

[149] Particular 3 alleges that Corporal Hollingsworth abused her position, power and authority because she gathered detailed information with respect to the work schedule and overall whereabouts of Constable Freeman. This was only possible because she worked in the same office as Constable Freeman.

[150] The Member Representative submitted that there is no evidence that Corporal Hollingsworth gathered a detailed knowledge of Constable Freeman's work schedule or whereabouts because they worked in the same office.

[151] There is no doubt that Corporal Hollingsworth and Constable Freeman worked in the same office, but they were in separate units. They had the same direct supervisor – Sergeant Knelsen. As such, Corporal Hollingsworth gained general knowledge of Constable Freeman's work schedule and whereabouts. She did not deny this. What she denied was that she deliberately gathered the information.

[152] The word "gather" connotes some type of positive action on the part of Corporal Hollingsworth to collect the information. Corporal Hollingsworth's position is that she acquired knowledge of Constable Freeman's work schedule and whereabouts because this information simply came to her as it would come to anyone in any type of work environment. Most people in the office

would have had the same knowledge she had about Constable Freeman's work schedule and whereabouts.

[153] Constable Freeman testified that he would routinely send email messages to the entire Detachment advising them of his availability in the event they needed the services of a dog handler while he was off-duty. This practice apparently changed at some point after this matter came to light.

[154] Evidence was heard that there was some kind of board in Telecoms that showed when Constable Freeman and other members were in or out of the building. There is no evidence that Corporal Hollingsworth ever checked this board for the express purpose of ascertaining the whereabouts of Constable Freeman.

[155] Evidence was also heard that the shift schedules, including Constable Freeman's, were controlled through TEAM¹⁸, which has user access restrictions within it. There is no evidence that Corporal Hollingsworth had access to Constable Freeman's shift schedule in TEAM. In fact, Constable Freeman's duties were such that, according to the Sergeant Knelsen, the members assigned to the Police Service Dog Section and the Forensic Identification Section, both under her supervision, were the only members at Lloydminster Detachment that had the ability to enter their own changes to their shift schedules directly into TEAM. This was because of the extremely flexible nature of their shift schedule; their frequent on-call status; and their frequent call-outs made it extremely difficult, if not impossible for Sergeant Knelsen, their immediate supervisor, to keep track of their schedules.

[156] There is no evidence that Constable Freeman's shift schedule was publicly posted anywhere in the Detachment.

[157] Finally, it has not been shown that any of the information Corporal Hollingsworth may have possessed was protected information.

[158] The text message exchange between Corporal Hollingsworth and Mrs. D.M., beginning at the bottom of page 666 of the investigation binder, reads:

¹⁸ Total Expenditures and Asset Management System.

[Cpl. Hollingsworth]: Is Mark around this week? He told [Mrs. V.F.] that he is on a course in the bush all weekend. Said he can't take the kids. Said he won't be back until Tuesday. Just wondering if there is any validity to that as Suki said he thought the course ended today.

There are a couple of unrelated "text bubbles" in between, but Mrs. D.M. follows up with: "Hhmmmmm he told us the same story. Said he was training in the bush for 6 days?" So in this case, Corporal Hollingsworth obtained the same information, and agreeably she sought it out, from Mrs. V.F. and Mrs. D.M., both of whom obtained the information directly from Mr. Freeman himself.

[159] Corporal Hollingsworth mentioned that the type of information she is alleged to have been gathering could have been available to a member of the public simply by calling the office. I agree that this was certainly possible. If you consider the aforementioned text message, should Mrs. V.F. have called the office and said she needed to speak to Constable Freeman urgently and that it had to do with their children, she would have been told the same information from anyone who answered the telephone.

[160] Additionally, in this specific case, there is no indication that Corporal Hollingsworth used this information in any way.

[161] Given the foregoing, I cannot find that this particular was established.

Particular 4 – Conspiring with Mrs. D.M. and Mr. G.M.

[162] This particular states, in part, that Corporal Hollingsworth compromised her fairness and impartiality by conspiring with both Mrs. D.M. and Mr. G.M. to have them actively seek out and learn intimate details of the private life of their renter, Mr. Freeman. The particular goes on to list numerous pieces of information that Mrs. D.M. was recording and states that this was done with Corporal Hollingsworth's full knowledge and encouragement.

[163] I begin by noting that there is no evidence that Corporal Hollingsworth had any contact with Mr. G.M. in this regard. Any involvement he had in this alleged endeavour was between himself and Mrs. D.M. or was dictated by circumstances, like his intervention in the physical confrontation between Mr. and Mrs. Freeman on July 20, 2016. So, this portion of the allegation is not established.

[164] In her closing submissions¹⁹, the Member Representative provided the following definition of “conspiracy” obtained from the Miriam-Webster on-line dictionary:

conspire as to join in a secret agreement to do an unlawful or wrongful act; or an act which becomes unlawful as a result of a secret agreement; and to act in harmony towards a common end.

[165] *Black’s Law Dictionary*²⁰ defines “conspiracy” as “an agreement by two or more persons to commit an unlawful act, a combination for an unlawful purpose”.

[166] It is clear that both Mrs. D.M. and Corporal Hollingsworth were of like mind in their desire to have Mrs. V.F. learn, on her own, about the relationship between Mr. M.F. and the female they suspected was Mrs. D.R. But, simply being of like mind does not in itself constitute an agreement let alone a conspiracy.

[167] The conspiracy allegation is supplemented by the Conduct Authority’s claim that the information Mrs. D.M. was recording was done with Corporal Hollingsworth’s full knowledge and encouragement.

[168] In her subsection 15(3) *CSO (Conduct)* response to the allegations, Corporal Hollingsworth acknowledged that she was aware that Mrs. D.M. was recording information about Mr. Freeman’s activities on her property. She denied that she encouraged Mrs. D.M., but she admits that she did not discourage her either.

[169] The Conduct Authority Representative relied upon the circumstantial evidence of the commencement of the recording of the information by Mrs. D.M. coinciding with a social get together with Corporal Hollingsworth/Mr. Manj and Mr. G.M./Mrs. D.M. as being proof that Mrs. D.M. was asked to record the information. This is purely speculative. The evidence is clear that Mrs. D.M. took it upon herself to record all of the information that the particular says she recorded for her own personal reasons.

¹⁹ See Conduct Hearing Transcript, Volume 6, page 155, beginning at line 20.

²⁰ 7th ed., s.v. “conspiracy”.

[170] Furthermore, the Conduct Authority Representative insisted that Corporal Hollingsworth had a positive duty to tell Mrs. D.M. to stop recording the information because it was a violation of Mr. Freeman's privacy. I do not agree.

[171] I will talk about this further in relation to the particular that alleges an invasion of privacy, but I will state here that a conspiracy requires the commitment of an unlawful or wrongful act. Invasion of privacy has been recognized in civil courts as an actionable tort, but Mrs. D.M. was doing nothing other than recording the activities of Mr. Freeman that were taking place in plain view on her property. These activities were making her and her husband feel uncomfortable on their own property. They also felt the actions of Mr. Freeman and the woman they believed to be Mrs. D.R. had the potential to jeopardize their personal integrity and thereby jeopardize their business interests. I do not feel that there was anything unlawful or wrongful about what she was doing. Under these circumstances, I do not feel that Corporal Hollingsworth had an obligation to tell Mrs. D.M. to stop.

[172] The Conduct Authority Representative also cited two specific text messages that they feel are evidence that Corporal Hollingsworth requested information from Mrs. D.M. and thereby evidence that she encouraged Mrs. D.M. to obtain information.

[173] The first text message referred to is found at page 666 of the investigation binder and has already been quoted [see paragraph 164]. As I read this text message exchange, this is a request for information that Mrs. D.M. may have and already did possess. I do not find this to be an encouragement to acquire information.

[174] The second text message referred to is found at page 674 of the investigation binder. It reads, in part, as follows:

Anyway if you happen to see any going-on's around there it would be interesting. He is off tonight and tomorrow but apparently was too busy to take the kids tonight. He was away on the weekend at the bush course so he didn't see them. Unfortunate situation I guess I shouldn't judge. Maybe he is doing something important.

[175] Mrs. D.M. was specifically asked about this text message during her testimony. She clearly indicated that she did not take Corporal Hollingsworth's words as being a specific request for her to gather information about Mr. Freeman's activities²¹. It is certainly not a direct request.

[176] Given the foregoing, I cannot find that this particular was established.

Particular 5 – No operational reason to gather information about Constable Freeman

[177] Particular 5 states that Corporal Hollingsworth had no operational reason to gather information about Constable Freeman. In many ways, this statement is true. In other ways, it is not.

[178] When Corporal Hollingsworth was transferred to Lloydminster Detachment, she was put in charge of the traffic program. Later, she was placed in charge of the Crime Reduction Unit which was responsible for the Prolific Offender Program, the Social Chronic Program as well as school and media liaison. There is no evidence before me as to the specific duties associated with these functions, but it is clear that at least the first two programs (Prolific Offender Program and Social Chronic Program) were part of an operational unit. As an operational unit, the Crime Reduction Unit would have a potential need of the services for a police dog. Therefore, Corporal Hollingsworth had an operational reason to have had some knowledge of Constable Freeman's duty status at any given time. The fact that Constable Freeman sent emails informing the entire Detachment of his whereabouts for call-out purposes is further evidence of the need for operational personnel to know his off-duty whereabouts. Why would he have adopted this practice if this was not so?

[179] I have already discussed the fact that Corporal Hollingsworth was not gathering information, but rather acquiring it through the normal course of her duties.

[180] Finally, I have also discussed that Corporal Hollingsworth had a personal interest in knowing Constable Freeman's whereabouts in order to manage her own personal affairs, in particular, babysitting requirements for the Freeman children.

[181] Based on the foregoing, I cannot find that this portion of the particular was established.

²¹ See Conduct Hearing Transcript, Volume 2, beginning at page 330, line 6.

Particular 5 – Passing of work-related information to Mrs. V.F.

[182] Corporal Hollingsworth admitted in her subsection 15(3) *CSO (Conduct)* response to the allegations that information obtained from work may have come up in casual conversation with Mrs. V.F., but she denied that she thoughtfully passed this information to her friend. She also admitted that she spoke more freely with Mrs. V.F. about such things following the July 20, 2016, incident on the property of Mr. G.M. and Mrs. D.M.

[183] The Conduct Authority Representative pointed to six specific examples from the text messages in which Corporal Hollingsworth provided information to Mrs. V.F. These appear at pages 869, 870, 873, 883, 884 and 887 of the investigation binder. I have reviewed all six of these messages. Two contain information relayed from Mrs. D.M. and have no relation to work. Two contain information surrounding the aftermath of the July 20, 2016, incident, which was obtained by Corporal Hollingsworth while she was off-duty and were only related to work because of the physical confrontation at the property owned by Mr. G.M. and Mrs. D.M. One was simply that Inspector Manj had been on the telephone. The remaining two had to do with a trip Constable Freeman made to Edmonton that coincided with a trip Mrs. D.R. also made to Edmonton to have a remote starter put in her vehicle. The installation of the remote starter was clearly not work related. No specifics were provided as to why Constable Freeman was in Edmonton. Mrs. V.F. already knew that Constable Freeman went to Edmonton for training, although work-related, this was no revelation to Mrs. V.F.

[184] The only truly work-related information in these text messages was that Mrs. D.R. went to Red Deer for training and nothing more. This was not protected information. The nature of the training is not specified. The source of Corporal Hollingsworth's information is not known. This is so tenuous that I cannot find this particular is established simply on this basis alone, especially considering that this is a dismissal case.

[185] All of the information that Mrs. V.F. possessed did not come from Corporal Hollingsworth. Witnesses testified that Mrs. V.F. had a number of sources of information with respect to Constable Freeman's shift schedule or whereabouts relative to his work. One of these sources was Constable Freeman himself.

[186] Up to the time of their separation, Mrs. V.F. had either been in a relationship with or married to Mr. Freeman throughout his entire RCMP career. Mrs. V.F. testified that she had knowledge of his work schedule and other work activities that was obtained while they were still together. For example, she knew that Wednesday was Constable Freeman's training day in Edmonton. Given the intrusiveness of his position into his personal life, she likely knew a lot more about his work activities than was not presented in evidence. Following their separation, Mr. Freeman continued to convey information to Mrs. V.F. about his work schedule and whereabouts. This information was related to the access and care of their two children.

[187] The children were also a source of information for Mrs. V.F. They undoubtedly told her about their visits with their father when they got home. For example, they told her about the new mattress Mr. Freeman had acquired for the bed at the suite. They also told her about being driven in the police motor vehicle when Constable Freeman was called out.

[188] Mr. D.R. was not overly forthcoming about what he told Mrs. V.F. during the two-hour telephone call following the July 20, 2016, incident. Mrs. V.F. testified that Mr. D.R. was a fount of information for her. The information he provided allowed her to put things together with respect to her husband's work trips mentioned in the previously noted text messages.

[189] Based on the foregoing, I find this particular is not established.

Particular 5 – Invasion of the privacy of Mr. M.F. and Mrs. D.R.

[190] Particular 5 also alleges that Corporal Hollingsworth invaded the privacy of both Mr. Freeman and Mrs. D.R.

[191] As it turns out, I experienced an almost identical situation to that of Mr. Freeman. In the summer of 2008, my spouse and I were transferred. There was a three-month gap between the close of our house at the old post and the possession of our house at the new post. I preceded my wife to the new post for the three-month period. The only temporary accommodation available to me was a suite above a garage on a rural property located some distance from town. The suite was provided by an owner who made it available to assist RCMP members in need of temporary housing. I was the fifth or sixth RCMP member to live in the suite. The garage was separate from the house like the one on the property owned by Mr. G.M. and Mrs. D.M., but it was in much closer proximity. Although I

had an expectation of privacy inside the suite, I had no illusions that what I did outside the suite was private. I was also fully aware that I needed to respect the privacy of the permanent residents of the house.

[192] Under the circumstances, I do not find that Mr. Freeman and Mrs. D.R. had a reasonable expectation of privacy relating to their actions that occurred outside of the suite and in plain view on the property owned by Mr. G.M. and Mrs. D.M.

[193] Having said this, and as previously mentioned, the civil courts have recognized that invasion of privacy is an actionable tort. The leading case in respect of this appears to be the Ontario Court of Appeal decision in *Jones v Tsige*, 2012 ONCA 32 (CanLII). There are several recognized means of invading privacy, with the only potentially applicable one to this case being what is referred to as “intrusion upon seclusion”. According to the court, the conduct of the person alleged to have invaded the privacy must be intentional, including recklessness. It must invade the private affairs or concerns without lawful justification. And finally, the conduct must be such that the reasonable person would regard the invasion as highly offensive, causing distress, humiliation or anguish. The implication is that Corporal Hollingsworth breached the privacy of Mr. Freeman and Mrs. D.R. by her actions and through the conspiracy with Mr. G.M. and Mrs. D.M.

[194] Mr. G.M. and Mrs. D.M. did not have any hidden recording devices or cameras inside the suite rented to Mr. Freeman, although Constable Freeman did hint about this possibility²².

[195] Mr. G.M. testified that, on occasion, “they” would need to go into the suite “to do something”. Prior to entering the suite, “they” would send Mr. Freeman a text message and advise him of this²³.

[196] Everything Mr. G.M. and Mrs. D.M. observed on their property regarding Mr. Freeman and Mrs. D.R. occurred in plain view while Mr. Freeman and/or Mrs. D.R. were outside of the suite. Although Mrs. D.M. joked several times about hiding in the bushes to observe Mr. Freeman²⁴, Constable Freeman spoke about these text messages in his testimony as having interpreted them as

²² See Conduct Hearing Transcript, Volume 1, page 178, lines 11 – 17.

²³ See Conduct Hearing Transcript, Volume 2, page 11, lines 15 – 17.

²⁴ See Conduct Hearing Transcript, Volume 2, page 344, beginning at line 10 and Volume 2, page 347, beginning at line 1.

Mrs. D.M. having actually done this²⁵. However, there is no evidence that she actually did. This is another example of Constable Freeman's misinterpretation of the evidence. Rather, Mr. G.M. and Mrs. D.M. were simply in their yard or in their house going about their normal daily activities, such as adjusting motion sensor lights, watering their 200 plant pots, having or preparing for a bonfire, visiting with family or cooking in the kitchen. These are all things that they had every right to be doing on their own property. Their observations were not intentional or made covertly. These were things that were unfolding before their eyes.

[197] A reasonable person would not view the actions of Mr. G.M. and Mrs. D.M. as highly offensive. Mr. Freeman's actions were making them feel uncomfortable on their own property. They were not obliged to become prisoners in their own house with the curtains closed in order to avoid contact with their tenant, nor should they have been discouraged from going about their daily routine in the yard for fear that they might observe something that Mr. Freeman did not wish them to see. The question that needs to be asked is, "Whose privacy was actually being violated?"

[198] The Conduct Authority is laying the blame for Mrs. V.F.'s discovery of the relationship between Mr. Freeman and Mrs. D.R. exclusively at the feet of Corporal Hollingsworth and Mrs. D.M. However, despite the efforts of Mr. Freeman and Mrs. D.R. to keep their "friendship" secret, it was not. As Mr. G.M. and Mrs. D.M. testified, Lloydminster is a small town. People talk. Mrs. D.M. testified that she and Mr. G.M. had heard the rumours at two separate public events about the "dog man" at the Detachment having an affair. The first was at an event associated to the service club they belonged to. The other was at an Irish Pub Night. At these events, they heard Emergency Services workers talking about it. The relationship was also out there in the Detachment. As we heard from Constable Freeman, the "Ricki Rumour" was started by an RCMP member who was on maternity leave and not even in the office full time. As Constable Freeman testified, this rumour spread like wildfire and there was nothing he could do to stop it.

[199] Based on the foregoing, I cannot find that this portion of the particular is established.

Particular 6 – Underlying motive

[200] The Member Representative has argued that motive is not a proper particular. I agree.

²⁵ See Conduct Hearing Transcript, Volume 1, page 117, beginning at line 1.

[201] In any event, I do not find that Corporal Hollingsworth's motive, as set out in the particulars, is properly stated. It is highly exaggerated. Certainly, Corporal Hollingsworth did not approve of the relationship between Mr. Freeman and Mrs. D.R. But it is clear that if Corporal Hollingsworth had a motive, it was to allow her friend, Mrs. V.F., to understand the true nature of her future relationship with her husband so that she could make informed decisions in relation to herself and her children. She was not motivated by self-interest, but rather the interests of a friend.

[202] There was no quest for information. Corporal Hollingsworth had more than enough information as early as January 2016 when the "Ricki Rumour" broke in the office. Instead of betraying Mrs. D.R.'s secret to Mrs. V.F., she withheld the information she had despite her friend's numerous requests for it.

Conclusion – Allegation 1

[203] Based on the foregoing, I find that Allegation 1 was not established.

Evidence and findings – Allegation 2

[204] The second allegation is also under section 3.2 of the Code of Conduct and reads as follows:

Allegation 2

On or between June 16, 2016 and September 14, 2016, at or near Lloydminster on the Provinces of Alberta and Saskatchewan and Chilliwack in the Province of British Columbia, Corporal Tammy Hollingsworth, failed to act with integrity, fairness and impartiality, and did compromise or abuse her authority, power or position, contrary to section 3.2 of the Code of Conduct of the Royal Canadian Mounted Police.

Particulars of the contravention:

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted at the Lloydminster Detachment in "K" Division.
2. [Mrs. D.R.] was a municipal employee at the Lloydminster RCMP Detachment. You were close personal friends with [Mrs. V.F.] and deliberately decided to become involved in her personal marital issues. [Mrs. V.F.] was the estranged spouse of Cst. Mark Freeman ("Cst. Freeman"). Cst. Freeman is the RCMP dog handler posted to Lloydminster Detachment and supervised by Sergeant Sarah Knelsen.
3. You purposefully abused your position, power and authority as a regular member of the RCMP by deliberately gathering detailed knowledge with

respect to the work schedule and overall whereabouts of Cst. Freeman. Your ability to gain a detailed knowledge of Cst. Freeman's work practices was only possible because of the fact that you worked in the same office as him and also because you relied upon knowledge that you gained from your husband – Inspector Sukhjot Manj – who was the OIC of the Detachment. You had no legitimate operational reason to gather this information.

4. Cst. Freeman was residing in a rented room on the property of [Mr. G.M.] and [Mrs. D.M.]. You compromised your fairness and impartiality by conspiring with both [Mr. G.M.] and [Mrs. D.M.] to have them actively seek out and learn intimate details of the private life of their renter Cst. Freeman. The underlying motive as to why you purposefully became involved in both the work schedule and private affairs of Cst. Freeman was that you simply could not accept that he and [Mrs. D.R.] were involved in a close private relationship.
5. You became determined to have [Mrs. V.F.] observe both Cst. Freeman and [Mrs. D.R.] together. You first devised an elaborate plan for [Mrs. V.F.] and [Mrs. D.M.] to meet in-person. The details of this plan are contained in a multitude of text messages between yourself and [Mrs. D.M.]. On July 20, 2016, [Mrs. D.M.] sent you a text message to instruct [Mrs. V.F.] to drive to the [Mr. G.M. and Mrs. D.M.] property so that she could personally observe a red truck and its driver – believed to be [Mrs. D.R.] – at the rented residence of Cst. Freeman. The details of your correspondence with [Mrs. V.F.] are contained in a multitude of text messages. [Mrs. V.F.] did attend to the [Mr. G.M. and Mrs. D.M.] property and a physical confrontation occurred between [Mrs. V.F.] and Cst. Freeman as a direct result of your scheming and planning with [Mrs. D.M.].
6. You deliberately assisted with all aspects of this arranged meeting between Cst. Freeman, [Mrs. V.F.] and [Mrs. D.R.] at the [Mr. G.M. and Mrs. D.M.] property. This included babysitting the children of [Mrs. V.F.] so that she could attend the [Mr. G.M. and Mrs. D.M.] property.
7. By deliberately taking steps that directly resulted in a domestic violence situation, you failed to act with integrity, fairness and impartiality. But for your purposeful and planned actions, this encounter on the [Mr. G.M. and Mrs. D.M.] property would have never occurred.
8. You further breached your duty to act fairly and with impartiality by actively encouraging [Mrs. D.M.] and [Mr. G.M.] to make complaints with respect to the moral character of [Mrs. D.R.] to her employer and also encouraging [Mrs. D.M.] to file a Public Complaint with the Civilian Review and Complaints Commission for the RCMP File 2016-2114, for purely personal and self-serving reasons.

[205] Again, my findings in the *Determination of Established Facts* address Particulars 1, 2, the last sentence of Particular 3, and the first sentence in Particular 4. What remains is the remainder of Particular 4 and all of Particulars 5, 6, and 7. Particular 8 was struck during the conduct hearing.

[206] The analysis of the remainder of Particular 3 and Particular 4 has already been conducted previously in the present written decision.

Particular 5 – Elaborate plan to have Mrs. V.F. meet Mrs. D.M.

[207] Particular 5 alleges, in part, that Corporal Hollingsworth devised an elaborate plan for Mrs. V.F. to meet Mrs. D.M. in person.

[208] It is clear from the evidence that Corporal Hollingsworth was being repeatedly asked by her friend, Mrs. V.F., if she knew anything about her estranged husband's personal affairs. The evidence is also clear that Corporal Hollingsworth knew much more information and had very strong suspicions about what was going on with Mr. Freeman and Mrs. D.R. She did not disclose this information or her suspicions to Mrs. V.F. until after the July 20, 2016, incident. It was repeatedly heard that Corporal Hollingsworth was having difficulty dealing with what she knew and felt she could not tell her friend even in the face of her repeated requests for information.

[209] Mrs. D.M. expressed a desire to meet Mrs. V.F. She had gifts for Mrs. V.F.'s children and thought, based on her experience with the family violence prevention centre, she might be able to help her deal with the separation from her husband and to be of some support for her after Corporal Hollingsworth left town.

[210] It is also clear that Mrs. V.F. did not have the same enthusiasm to meet Mrs. D.M. Mrs. V.F. testified that although Corporal Hollingsworth had told her what a great person Mrs. D.M. was, she did not want to meet her at that time. She said this, "And at that time, I was under the impression that they really – they really had a lot of respect for Mark, so I didn't really – wasn't too keen on meeting her yet."²⁶

[211] The combination of these three factors posed a significant dilemma for Corporal Hollingsworth. Her friend wanted information from her. Mrs. D.M. possessed the information her

²⁶ See Conduct Hearing Transcript, Volume 2, page 83, line 7.

friend desired and was willing to share it with Mrs. V.F, but she had no means of doing so because she was not acquainted with Mrs. V.F. at the time. Corporal Hollingsworth was in the middle and wanted out. There was no need for her to be a conduit for information that could easily be shared directly between Mrs. D.M. and Mrs. V.F. They could exchange information freely without Corporal Hollingsworth's involvement, but they needed to meet each other in order to do that. However, only one of them was interested in meeting the other while the other did not have the same interest.

[212] Corporal Hollingsworth and Mrs. D.M. agreed to stage a meeting with Mrs. V.F. The meeting was discussed several days prior to the day the meeting actually took place, with one failed attempt. But this is not evidence of elaborate planning. In fact, the meeting occurred simply because an opportunity arose. Mrs. V.F. approached Corporal Hollingsworth to get together before Mr. Manj and Corporal Hollingsworth went on holiday coupled with the fact that Corporal Hollingsworth's time in Lloydminster was coming to an end. Corporal Hollingsworth suggested coffee at a particular location. Mrs. V.F. agreed to meet. Mrs. D.M. was busy with foreign visitors but had a legitimate errand to run in town; therefore, she was able to work it into her schedule. A very brief meeting between Mrs. V.F. and Mrs. D.M. occurred. The meeting was definitely planned, but the planning was not elaborate.

[213] On the one hand, the Conduct Authority is seeking to sanction Corporal Hollingsworth for her involvement in this matter, specifically for her planning and scheming with Mrs. D.M. By connecting Mrs. V.F. directly with Mrs. D.M., information about Mr. Freeman could be shared between them without Corporal Hollingsworth's involvement. Corporal Hollingsworth's involvement in this was potentially over, at least to the extent of what was going on at the property owned by Mr. G.M. and Mrs. D.M. However, with this particular, the Conduct Authority is trying to hold Corporal Hollingsworth accountable for her actions in orchestrating a meeting, which was clearly intended to extricate herself from a situation that the Conduct Authority says she should not have been involved with in the first place. The Conduct Authority cannot have it both ways. The Conduct Authority cannot seek to sanction Corporal Hollingsworth for being involved, then try to hold her accountable for trying to get out of the middle of the situation. There was a plan, but not an elaborate one. The plan was one that had the legitimate purpose of, at least, reducing Corporal Hollingsworth's involvement in this matter.

[214] On this basis, I find that this portion of the particular is not established.

Particular 5 – Confrontation – Direct scheming and planning

[215] The remainder of Particular 5, Particular 6 and Particular 7 are somewhat related because they all pertain to claims that the physical confrontation between Mr. and Mrs. Freeman occurred as a direct result of Corporal Hollingsworth's scheming and planning with Mrs. D.M. and would not have occurred but for Corporal Hollingsworth's actions. Therefore, I will address them jointly and begin by saying that the claims are a stretch.

[216] It is clear that both Mrs. D.M. and Corporal Hollingsworth had a desire for Mrs. V.F. to learn of Mr. Freeman's involvement with a female they suspected of being Mrs. D.R. Their hope was that Mrs. V.F. could then move on with her life. They possessed the information Mrs. V.F. needed and wanted to know. Corporal Hollingsworth kept secret from her friend what she knew about the relationship and suffered considerable angst for doing so. She felt she was betraying her friend by withholding the information. She wanted Mrs. V.F. to find out on her own. Despite this, there is no evidence that Corporal Hollingsworth and Mrs. D.M. had a plan as to how Mrs. V.F. would find out on her own.

[217] Although they had very strong suspicions, Corporal Hollingsworth and Mrs. D.M. were not absolutely sure that Mrs. D.R. was the female involved in the relationship with Mr. Freeman. They did not want to provide Mrs. V.F. information that was not true.

[218] The events of July 20, 2016, did not occur because of some grand plan between Corporal Hollingsworth and Mrs. D.M., but rather because, as the Conduct Authority Representative acknowledged, "the stars aligned".

[219] The evidence is clear that Mrs. V.F. had no inkling of Mr. Freeman's relationship with Mrs. D.R. prior to July 20, 2016. It was not until she had a conversation with her neighbour that she learned that Mrs. D.R. was allegedly having an affair with a member at the Detachment. Her immediate thought was that it was her husband she was having the affair with. She engaged Corporal Hollingsworth with text messages to ascertain if Corporal Hollingsworth knew anything about her husband's possible relationship with Mrs. D.R. Corporal Hollingsworth stuck to her guns by ignoring or avoiding specifically answering the questions posed by Mrs. V.F.

[220] Neither Corporal Hollingsworth nor Mrs. D.M. knew that Mrs. D.R. would be attending the property owned by Mr. G.M. and Mrs. D.M. on July 20, 2016. Corporal Hollingsworth and Mr. Manj had dinner plans for the evening. Mr. G.M. and Mrs. D.M. were not at home during the day, but when they arrived, they observed Mr. Freeman's "vehicle parking routine". This signalled to them the impending arrival of the female guest. A red pick-up truck subsequently arrived. The opportunity for Mrs. V.F. to make the discovery of her husband's relationship with another woman had arisen.

[221] It was Mrs. D.M. who initially suggested that Mrs. V.F. come to their house. She asked Corporal Hollingsworth to convey the message. As she testified, she did not want to go directly to Mrs. V.F. herself because she had only met her a few days earlier and did not want to be the one to "drop the bombshell"²⁷. Corporal Hollingsworth simply conveyed the message, as requested. The Conduct Authority characterized the conveyance of the message as an instruction to attend the property owned by Mr. G.M. and Mrs. D.M.

[222] Despite her dinner plans, Corporal Hollingsworth offered to watch the children for Mrs. V.F. She had often looked after the children. I do not think this was necessarily a bad decision. The children did not need to see their parents in a situation that would have been nothing but uncomfortable, at the least.

[223] Mrs. V.F. is an adult who was capable of making her own decisions in relation to her personal life. No one, including Corporal Hollingsworth, twisted her arm to attend the property owned by Mr. G.M. and Mrs. D.M. She did that of her own volition.

[224] Certainly, Corporal Hollingsworth assisted Mrs. V.F. in carrying out her decision to attend the property owned by Mr. G.M. and Mrs. D.M. by babysitting the children. She has admitted to doing this. But Corporal Hollingsworth merely presented Mrs. V.F. with information that related to her frequently expressed desire to bring closure to the question of whether Mr. Freeman was seeing someone else. It was her decision to attend the property and no one else's.

[225] What happened once Mrs. V.F. arrived at the property owned by Mr. G.M. and Mrs. D.M. was up to no one but Mrs. V.F., Mr. Freeman and Mrs. D.R. They could have discussed the situation

²⁷ See Conduct Hearing Transcript, Volume 2, page 324, lines 16 – 25.

calmly and coolly, but that did not happen. Instead, the encounter ended in a physical confrontation between Mr. and Mrs. Freeman. Corporal Hollingsworth had no control over what happened at the property. She was not there.

[226] The Conduct Authority is attempting to lay the blame for this entire matter at the feet of Corporal Hollingsworth. Although out of context for this particular, at one point in his cross-examination of Corporal Hollingsworth, the Conduct Authority Representative told her that if she had just instructed Mrs. V.F. to go to the police office and report the July 20, 2016, incident, the conduct hearing would not have been required.

[227] I do not agree. Rather, if Mr. Freeman and Mrs. D.R. had chosen to be open and honest with people who had a vested interest about their “friendship”, this entire conduct process would not have been necessary. Like Mr. D.R. from the City of Lloydminster, I am not here to be anyone’s “moral compass”, but Mr. Freeman and Mrs. D.R. need to accept responsibility for their actions. It was their choice to separate from their respective spouses. It was their choice to become engaged in the “friendship” with each other. It was their choice to try to keep the “friendship” secret. Although I am not suggesting that they should have announced their “friendship” to the world, there were people who had a vested interest in knowing about it. These people should have reasonably been told about the “friendship”. Mrs. V.F. would be at the top of the list. Not only did they not tell people about their “friendship”, but they tried to be sneaky about it. Had they not taken actions, to hide what they were doing, in plain view of Mr. G.M. and Mrs. D.M., they would not have piqued their interest and raised their concerns. Now they blame everyone else but themselves.

[228] A reasonable explanation as to why they did not wish to share this information has not been provided. Constable Freeman simply says that he and Mrs. D.R. are private people who simply wanted to keep their “friendship” secret. The couple has maintained in their statements that this was no one’s business because they were both consenting adults who were both separated from their respective spouses at the time with no possibility of reconciliation. Therefore, there was nothing inappropriate in their relationship. I do not necessarily disagree with this position, noting that neither of them was legally separated from their respective spouses at the time, but it was their desire and efforts to keep their “friendship” a secret that contributed significantly to the events that culminated with the confrontation on July 20, 2016. If they were doing nothing wrong, why keep it a secret?

Honesty, which is a core value of the RCMP, would have resolved this whole affair. Corporal Hollingsworth would not have had to be involved at all.

[229] Based on the foregoing, I find that these particulars are not established.

Particular 8 – Actively encouraging Mr. G.M. and Mrs. D.M. to file a public complaint against Constable Freeman

[230] Particular 8, the final particular in this allegation, is that Corporal Hollingsworth breached her duty to act fairly and with impartiality by actively encouraging Mr. G.M. and Mrs. D.M. to file a complaint with respect to the moral character of Mrs. D.R. to her employer and also encouraged Mrs. D.M. to file a complaint against Constable Freeman with the Public Complaint with the Civilian Review and Complaints Commission for the RCMP, for purely personal and self-serving reasons. This particular was struck by the Conduct Authority Representative during the hearing on the basis that there was no evidence to support it.

Conclusion – Allegation 2

[231] Based on the foregoing, I find that Allegation 2 is not established.

Evidence and findings – Allegation 3

[232] The third allegation is under section 4.2 of the Code of Conduct and reads as follows:

Allegation 3

On or between July 20, 2016, and August 13, 2016, at or near Lloydminster in the Provinces of Alberta and Saskatchewan, Corporal Tammy Hollingsworth failed to be diligent in the performance of her duties and the carrying out of her responsibilities, including taking appropriate action to aid any person who is exposed to potential, imminent or actual danger, contrary to section 4.2 of the Code of Conduct of the Royal Canadian Mounted Police.

Particulars of the contravention:

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted at the Lloydminster Detachment in “K” Division.
2. [Mrs. D.R.] was a municipal employee at the Lloydminster RCMP Detachment. You were close personal friends with [Mrs. V.F.] and deliberately decided to become involved in her personal marital issues. [Mrs. V.F.] was the estranged spouse of Cst. Mark Freeman (“Cst.

Freeman”). Cst. Freeman is the RCMP dog handler posted to Lloydminster Detachment and was residing in a rented room on the property of [Mr. G.M.] and [Mrs. D.M.]. The underlying motive as to why you purposefully became involved in the private affairs of both Cst. Freeman and [Mrs. D.R.] was that you simply could not accept that he and [Mrs. D.R.] were involved in a close and private relationship.

3. You became determined to have [Mrs. V.F.] observe Cst. Freeman and [Mrs. D.R.] together. You first devised an elaborate plan for [Mrs. V.F.] and [Mrs. D.M.] to meet in-person. The details of this plan are contained in a multitude of text messages between yourself and [Mrs. D.M.]. On July 20, 2016, [Mrs. D.M.] sent you a text message to instruct [Mrs. V.F.] to drive to the [Mr. G.M. and Mrs. D.M.] property so that she could personally observe a red truck and its driver – believed to be [Mrs. D.R.] – at the rented residence of Cst. Freeman. The details of your correspondence with [Mrs. V.F.] are contained in a multitude of text messages. [Mrs. V.F.] did attend to the [Mr. G.M. and Mrs. D.M.] property and a physical confrontation occurred between [Mrs. V.F.] and Cst. Freeman as a direct result of your scheming and planning with [Mrs. D.M.].
4. Following the physical confrontation [Mrs. V.F.] – at your request – attended your personal residence and proceeded to relate to you the complete details of what had taken place. You were presented with overwhelming evidence including a visible physical injury to the elbow of [Mrs. V.F.] along with knowledge of third party witnesses being presented to the confrontation. You failed to be diligent in the performance of your duties and the carrying out of your responsibilities, including taking appropriate action to aid [Mrs. V.F.] who had been exposed to actual danger and ensuring this matter was properly and fully investigated. You further failed to properly address the genuine fear held by [Mrs. V.F.] that Cst. Freeman might later come uninvited to [Mrs. V.F.’s] personal residence. Your failure to be diligent in your duties occurred despite the fact that you are a highly trained police officer who was in a supervisory position at the Lloydminster Detachment.
5. In addition to failing to ensure that what had occurred on the [Mr. G.M. and Mrs. D.M.] property was properly and thoroughly investigated by appropriate RCMP personnel, you deliberately obstructed the matter by actively discouraging or ignoring her genuine attempts to gain your assistance:
 - a) [Mrs. V.F.]: ‘I tried to walk in and he man handled me and scraped my elbow. He threatened to call police! You: “What??? Seriously. You coming home? Holy cow.”
 - b) [Mrs. V.F.]: Stopping to talk to [Mr. D.R.] first. [Mr. G.M.] came outside and I hope I didn’t embarrass myself. You: “Ok. I’m taking

the kids to my house. No you didn't. He saw what was happening and came to your rescue. They understand.”

- c) [Mrs. V.F.]: “Am I coming to your place. Should I file report.” You: “I have kids here. No you shouldn't. We will talk n”
- d) [Mrs. V.F.]: ‘My elbow is bruised and throbbing. Keep me posted please! I assume [Inspector S.M.] will be on the phone later. You: “Making arrangements for someone else to be there. Poor elbow. Oh [Constable M.F.] just left the house. What if he is coming to your house???!!!! Suki will be and has been on the phone. I will keep you posted. Have you texted [Mr. D.R.] yet?”
- e) [Mrs. V.F.]: “Not yet” You: “What if mark comes there and opens the garage?” [Mrs. V.F.]: “Should I be worried?” You: “I don't know!!!” [Mrs. V.F.]: “I locked the door in the house” You: “Ok but he has keys.” [Mrs. V.F.]: “Not sure if he does” You: “You need to change the door code!!! Tonight!!”
- f) [Mrs. V.F.]: “I just texted [a neighbour] and her boyfriend is huge. They are home” You: “Lol. Ok. We are both home now and can come too.”

[*Sic throughout*]

The test for diligence in the performance of duties

[233] Section 4.2 of the Code of Conduct reads: “Members are diligent in the performance of their duties and the carrying out of their responsibilities including taking appropriate action to aid any person who is exposed to potential, imminent or actual danger.” The test for diligence in the performance of duties has been set out by the RCMP External Review Committee (ERC) recommendation C-013 at paragraphs 81 through 86, which read as follows:

[81] Section 4.2 of the *Code of Conduct* differs from its predecessor provision, section 47 of the *Prior Code of Conduct*. Section 47 provided that “[a] member shall not knowingly neglect or give insufficient attention to any duty the member is required to perform”. In ERC 2800-04-002 (D-099), the ERC addressed the required elements of a breach of section 47 of the *Prior Code of Conduct*, stating that the member: had to be aware of the duty he or she was required to perform; fail to carry out that duty; and, know that he or she was neglecting to carry out the duty or failing to give sufficient attention to the duty (D-099, para. 53). The ERC also referred to past disciplinary decisions which distinguished between failures and omissions by a member which were performance issues and wilful failures and omissions falling within section 47 (D-099, paras. 47-51).

[82] Section 4.2 of the *Code of Conduct* is worded in the positive, requiring members to be “*diligent in the performance of their duties and the carrying out of their responsibilities*”. As a result, the section makes no reference to a member knowingly failing to be diligent. The same issue of distinguishing misconduct from poor performance arises under section 4.2 and the question is whether the change in language necessitates a new test to determine whether a breach of the section has occurred. In its discussion of section 4.2 in the *Guide*, the Force acknowledges that the effect on future cases of the omission of the word “*knowingly*” in section 4.2 is unclear (*Guide*, p. 20):

Neglect of duty was formerly codified under s. 47 of the Code of Conduct, which prohibited a member from “knowingly” neglecting his or her duty. Neglect of duty matters have always been a balancing act in trying to determine if the member’s conduct amounted to a breach of the Code of Conduct or represented a performance management issue. It is unclear what effect, if any, the deletion of the term “knowingly” from the new Code of Conduct will have on future cases, but the delicate balance between performance and conduct will continue to pose difficulties. It is suggested that neglect occurs when a member knows he or she has a duty to carry out, but omits to do so. [...]

[83] P. Ceyssens, in *Legal Aspects of Policing*, Vol 2 (Toronto, Earls Court, 2002) (Ceyssens) identifies *P.G. v. Ontario (Attorney General)*, [1996] O.J. No. 1298 (Div. Ct.), (*P.G.*) as the leading judicial decision concerning a failure by a police officer to promptly and diligently discharge his or her duty (Ceyssens, p. 6-85). In *P.G.*, the Ontario Divisional Court addressed the following provision governing neglect of duty which, like section 4.2, did not contain the term “*knowingly*” (Code of Offences, Regulation 791 to the *Ontario Police Act*):

1. Any [...] police officer commits an offence against discipline if he or she is guilty of, [...]

(c) Neglect of Duty, that is to say, if he or she,

(i) without lawful excuse, neglects or omits promptly and diligently to perform a duty as a member of the police force

[84] The Court referred to a prior police discipline case in which a board of inquiry ruled that an “*element of wilfulness*” or “*degree of neglect which would make the matter cross the line*” from a performance to a conduct matter was required (*P.G.*, para. 83)(emphasis added):

In Pollock v. Hill (a decision of the Board of Inquiry, dated November 19, 1992), the subject supervisory officers were charged with neglect of duty under s. 1(c)(i) in that they failed to properly supervise or take corrective measures regarding proper monitoring of a wire tap order. The Board wrote:

A finding of a breach of the Code of Offences is a serious finding against an individual officer which may result in major penalties

under the police complaints legislation. Therefore, we will not find the Officers guilty of neglect of a duty to supervise unless there was some element of wilfulness in their neglect or unless there was a degree of neglect which would make the matter cross the line from a mere performance consideration to a matter of misconduct.

[85] The *P.G.* test has been applied by the Ontario Civilian Commission on Police Services (OCCPS) in matters of neglect of duty (*Gottschalk and Toronto Police Service* (OCCPS (2003) #03-02) (*Gottschalk*) (pp. 8-10)). In *Brown and Ontario Provincial Police* (OCCPS (2006) #06-09) (*Brown*), the officer was charged with neglect of duty for having failed to inform a supervisor of his involvement in an accident in a timely manner. The applicable Code of Conduct provision stated that an officer was guilty of neglect of duty if he or she “*fails to work in accordance with orders*”. The OCCPS emphasized that a mere failure to comply with an order was insufficient to establish an allegation (*Brown*, p. 10):

The term ‘diligent’ is defined in the Oxford Dictionary of English (3d Ed.) as “having or showing care and conscientiousness in one’s work or duties”. The principle set forth above in the *P.G.* case with respect to the determination of whether a police officer has neglected his or her duty are consistent with this definition. In my opinion, there are two ways in which it can be established that a member failed to be diligent in the performance of their duties and the carrying out of their responsibilities within the meaning of section 4.2. of the Code of Conduct:

- There is an element of wilfulness to the conduct, as the Guide recognizes in suggesting that “neglect occurs when a member knows he or she has a duty to carry out, but omits to do so” or
- There is a degree of neglect which distinguishes the conduct from a mere performance issue to an issue of misconduct.

[234] The Conduct Authority Representative directed the Board to the case of *Hill v Hamilton-Wentworth Regional Police Services Board*, [2007] 3 SCR 41, as being the current authority on the standard of care owed by a police officer. The case sets out the standard of care as follows:

The standard of care of a reasonable police officer in similar circumstances should be applied in a manner that gives due recognition to the discretion inherent in police investigation. Police officers may make minor errors or errors in judgment without breaching the standard. This standard is flexible, covers all aspects of investigatory police work, and is reinforced by the nature and importance of police investigations. [68-73]

[235] The Conduct Authority Representative has stated that the crucial question relating to this allegation is whether or not Mr. Freeman committed an assault on Mrs. V.F. The Board agrees with

this position to the extent that the existence or absence of a criminal offence somewhat informs the discussion around whether or not Corporal Hollingsworth had a duty to carry out and what that duty might entail.

[236] There were actually three potential criminal offences identified by the parties resulting from the July 20, 2016, incident. They are:

- An assault on Mrs. V.F. by Mr. Freeman.
- A break and enter committed by Mrs. V.F. to the red truck on the property owned by Mr. G.M. and Mrs. D.M.
- Damage to a wreath hanging on the door to the suite on the property owned by Mr. G.M. and Mrs. D.M.

[237] Quite frankly I was very surprised the difficulty seasoned police officers had with three very common criminal offences. These are three very basic criminal offences. This is almost training academy stuff.

[238] The first criminal offence is the alleged assault on Mrs. V.F. by Mr. Freeman. Assault is defined in the *Criminal Code*, RSC 1985, c C-46 [*Criminal Code*], as the application of force intentionally to a person either directly or indirectly without the consent of the person to which the force is being applied.

[239] Mr. Freeman clearly applied force to Mrs. V.F. He either firmly grabbed her arms or he grabbed her by the hoodie she was wearing. The evidence as to which he did is not absolutely clear, but either way, it was an application of force. He pushed her backwards. In the process, she struck her elbow on something, which initially caused a scrape on her elbow. This scrape was seen by Corporal Hollingsworth on July 20, 2016. The scrape eventually turned into a bruise. Mrs. V.F. sent a photograph of the bruised elbow to Corporal Hollingsworth on July 21, 2016. Not only was force applied by Mr. Freeman, but it was sufficient force to cause injury, albeit minor, to Mrs. V.F. The application of force by Mr. Freeman was clearly intentional.

[240] There is conflicting evidence as to whether or not Mr. Freeman was trying to prevent Mrs. V.F. from entering his rented residence, as Mrs. V.F. claims, or whether he was removing her from it because she had already entered and was starting up the stairs, as Mr. Freeman claims. Again, either

way, the application of force was intentional. I have already indicated which version of events I favour.

[241] Based on the evidence presented at the conduct hearing, the Board concluded that there were sufficient reasonable and probable grounds for the officers involved in the July 20, 2016, incident to believe that Mr. Freeman had committed an assault on Mrs. V.F. during the physical confrontation at the property owned by Mr. G.M. and Mrs. D.M.

[242] The only defence for assault expressly contained in the *Criminal Code* is a belief that the person to whom the force is applied consented to the application of force. There is no evidence before me that indicates Mrs. V.F. consented to the application of force by Mr. Freeman or that she did anything that should have led him to believe that she consented to the application of force.

[243] Mrs. V.F. was told by Inspector Manj and Constable Freeman that Mr. Freeman had not committed an assault because he was justified in applying force to her in the defence of his property²⁸. There is no firm evidence that Corporal Hollingsworth, although present, gave her a similar assessment. Mrs. V.F. testified that she did not²⁹.

[244] There may be a common law defence for assault when someone is defending their property, but I have not been expressly informed of one by either party. While the annotations in my *Martin's Criminal Code* make reference to possible defences for assault such as carelessness or reflex action, there is no mention of a defence of protecting one's property. Even if there is such a defence, it would have been for a judge to decide if the defence operated in the particular circumstances of this case. It was not for any of the officers involved in the matter up to that point to make this determination, especially when the matter had not been completely investigated.

[245] I will now move to the alleged break and enter to the vehicle committed by Mrs. V.F. The offence of break and enter is set out in the *Criminal Code*. The offence pertains to everyone who breaks and enters a place with the intent to commit an indictable offence or commits an indictable offence. For the purposes of the offence of break and enter, a "place" is defined as a dwelling house, a building or structure or any part thereof other than a dwelling house, a railway vehicle, vessel,

²⁸ See Conduct Hearing Transcript, Volume 2, beginning at page 102, line 14.

²⁹ See Conduct Hearing Transcript, Volume 2, beginning at page 104, line 16.

aircraft, or a trailer, or a pen or enclosure in which fur bearing animals are kept in captivity. A motor vehicle is not a “place” as defined by the *Criminal Code* for the purposes of the offence of break and enter.

[246] Furthermore, Mrs. V.F. did not enter the vehicle with the intent to commit an indictable offence, nor did she commit one. She did not take anything. She did not cause any damage to the vehicle or any property in it. She did not commit any other indictable offence. Rather, she entered the vehicle to determine who the registered owner of the vehicle was. She located the vehicle registration and photographed it and, by all accounts, returned it, unaltered, to where she found it. This is not an indictable offence as far as I am aware. Therefore, based on the evidence before me, I conclude that she did not commit a break and enter when she entered the vehicle.

[247] The last potential criminal offence is the damage to the wreath owned by Mr. G.M. and Mrs. D.M. Damage to property is covered under the offence of mischief, which is defined in the *Criminal Code* as being when one willfully destroys or damages property. I will not belabour the discussion on this because it was not known to anyone but Mr. G.M. and Mrs. D.M. for some time after the July 20, 2016, incident that this damage had occurred. In fact, there is no evidence in the Record that the damage actually occurred during the July 20, 2016, incident nor is there evidence as to who may have broken the wreath or of any intention to do so.

[248] Based on the foregoing, it is clear that Mr. Freeman, an off-duty member of the RCMP, appeared to have committed an assault on his estranged wife, Mrs. V.F., regardless of how the incident came about.

[249] Corporal Hollingsworth had certain knowledge of this. Therefore, not only did she have a duty arising from section 4.2 of the Code of Conduct, but also from section 8.3 of the Code of Conduct, which reads: “Members, unless exempt by the Commissioner, take appropriate action if the conduct of another member contravenes this Code and reports the contravention as soon as feasible.” The existence of this latter duty has not been raised by either party, but it nevertheless existed in this case. In fact, it is the clearer of the two duties to me.

[250] Corporal Hollingsworth did not deny that she had a duty to act. Rather, her position is that she had a duty and she fulfilled that duty by her actions, including having the matter reported to several members of the Detachment senior to her in position and rank.

[251] Several aspects of Corporal Hollingsworth's alleged failure to be diligent in the performance of her duties and carrying out of her responsibilities are set out in the particulars. The first is that, as a direct result of her scheming and planning with Mrs. D.M., Corporal Hollingsworth placed Mrs. V.F. in the situation where the physical confrontation occurred. This aspect was discussed in Allegation 3 and need not be addressed too much further here.

[252] Second, it is alleged that Corporal Hollingsworth failed to take appropriate action to aid Mrs. V.F., who had been exposed to actual danger, by failing to ensure that the July 20, 2016, incident was "properly and fully investigated".

[253] Third, Corporal Hollingsworth allegedly failed to address Mrs. V.F.'s genuine fear that Mr. Freeman might later attend her personal residence on July 20, 2016.

[254] Finally, Corporal Hollingsworth deliberately obstructed the matter by discouraging Mrs. V.F. from reporting the physical confrontation and by downplaying or ignoring her genuine attempts to gain her assistance.

[255] I will answer the two noted questions in the test for diligence in the performance of duty as they relate to these four components of the allegation.

Particular 3 – Deliberate planning and scheming placing Mrs. V.F. in a situation of danger

[256] The bulk of this particular was previously addressed, but more in relation to the planning and scheming aspect of the particular. What remains is whether or not Mrs. V.F. was placed in a situation of danger by Corporal Hollingsworth.

[257] As already stated, Mrs. V.F. is an adult. She was capable of making her own decisions. She was capable of assessing the potential risk of attending the property owned by Mr. G.M. and Mrs. D.M. to confront Mr. Freeman. She had been Mr. Freeman's partner for 20 years. During that time, Mr. Freeman had never used physical violence with her. In fact, they hardly even argued. The

only real argument they ever had occurred only a week before the July 20, 2016, incident. Although Mr. Freeman yelled at the children, he had never yelled at Mrs. V.F. The potential for physical violence occurring likely never crossed Mrs. V.F.'s mind or she likely would not have gone to the property owned by Mr. G.M. and Mrs. D.M. on her own.

[258] Corporal Hollingsworth was also aware that Mr. G.M and Mrs. D.M were at home. In the event something happened, they would be able to intercede and defuse the situation.

[259] Corporal Hollingsworth also had the impression that, as a police officer, Constable Freeman was trained to defuse, not escalate, volatile situations. Therefore, it was reasonable for her to expect that Mr. Freeman would use his training and to avoid a physical confrontation with his estranged wife.

[260] Based on the foregoing, I find that this Particular is not established.

***Particular 4 – Failure to take appropriate steps to aid Mrs. V.F. – Ensuring the
July 20, 2016, incident was properly investigated***

[261] Particular 4 alleges that Corporal Hollingsworth failed to take appropriate steps to have the matter investigated, despite being presented with overwhelming evidence that Mrs. V.F. had been exposed to actual danger.

[262] There is no doubt that Corporal Hollingsworth had ample evidence to form reasonable and probable grounds to believe that Mrs. V.F. had been assaulted by Mr. Freeman. An actual assault is significantly more than simply being exposed to actual danger.

[263] There is no evidence that Corporal Hollingsworth recognized that she had a duty as a member or what that duty was, but she knew she had to do something and she did. She brought the matter to Inspector Manj's attention at the earliest opportunity. Inspector Manj testified that he received a telephone call at work from Corporal Hollingsworth at which time she advised him that Mrs. V.F. was attending or had attended the property owned by Mr. G.M. and Mrs. D.M. She expressly asked Inspector Manj to come home because she was dealing with the situation on her own and it was rapidly unfolding.

[264] When Inspector Manj arrived home, Mrs. V.F. was already there. She provided him with an account of what had taken place on the property owned by Mr. G.M. and Mrs. D.M. Corporal Hollingsworth was present when this report was provided. She was also present when Inspector Manj took further action after hearing Mrs. V.F.'s version of events. These actions included receiving a telephone call from Sergeant Knelsen, in which she informed Inspector Manj that Constable Freeman had reported the incident to her. Sergeant Knelsen was not only Corporal Hollingsworth's direct supervisor at the time, but she was also slated to be the co-acting Officer in Charge of Lloydminster Detachment, in partnership with Sergeant Gerald Walker (Sergeant Walker), when Inspector Manj began his annual leave the next day.

[265] Corporal Hollingsworth was also present when Inspector Manj called Mr. G.M. and Mrs. D.M. and made inquiries to determine what they knew about the incident on their property.

[266] Corporal Hollingsworth was also aware that, after taking these actions, Inspector Manj informed Mrs. V.F. that what took place on the property owned by Mr. G.M. and Mrs. D.M. did not amount to an assault because Mr. Freeman was defending his property.

[267] There is also evidence that Inspector Manj contacted Sergeant Walker, who, as previously mentioned, was also slated to be the co-acting Officer in Charge of Lloydminster Detachment when Inspector Manj began his leave the following day. Inspector Manj also testified that he placed a telephone call to someone at the Eastern District office to inform District management of the incident. He did not receive an answer and did not leave a message.

[268] There is no evidence that Corporal Hollingsworth was aware of these two latter actions. But, the important thing is that, through her actions, the Officer in Charge of Lloydminster Detachment and two senior Non-Commissioned Officers were aware that a domestic violence situation involving an off-duty member of the RCMP under their command, which may or may not have involved criminal acts, had taken place.

[269] The Conduct Authority insists that, despite this, Corporal Hollingsworth had a continuing duty to ensure that this matter was investigated. The Conduct Authority Representative suggests that Corporal Hollingsworth should have either ensured that the matter was reported to Kitscoty Detachment, the RCMP Detachment with jurisdiction over the alleged assault, or should have taken

a statement from Mrs. V.F. herself. The Conduct Authority also maintains that Corporal Hollingsworth had an obligation to proactively provide the evidence of Mrs. V.F.'s bruised elbow to investigators and should have proactively sought out the acting Officers in Charge of the Detachment to ascertain what actions they were taking to further the investigation of the alleged assault.

[270] I cannot agree. Given what had taken place, Corporal Hollingsworth was fully justified in believing that she had, while off-duty, fulfilled her duty as a member of the RCMP, to have the matter investigated. She reported the matter to the Officer in Charge of Lloydminster Detachment, a senior officer. She also became aware that two other senior Non-Commissioned Officers, Sergeant Knelsen, the direct supervisor of both Constable Freeman and herself, and Sergeant Walker, were aware of the incident. Beginning the following day, these two Non-Commissioned Officers were to be the co-acting Officer in Charge of Lloydminster Detachment while Inspector Manj was on annual leave. She was not obliged to do anything further in this case.

[271] Given the foregoing, I find that this particular has not been established.

Particular 5 – Obstructing justice – Discourage reporting of the physical confrontation

[272] The Conduct Authority not only alleges that Corporal Hollingsworth failed to take appropriate steps to cause the assault on Mrs. V.F. to be investigated, but has gone further to allege that she obstructed justice by discouraging Mrs. V.F. from reporting the assault.

[273] With respect to Corporal Hollingsworth's alleged obstruction of the matter by discouraging Mrs. V.F. from reporting the incident, it is clear that in the text message string contained in the particular that Corporal Hollingsworth did tell Mrs. V.F. not to report the incident. The text message string the Conduct Authority suggests demonstrates the obstruction of justice is set in sub-particular 5(c), which reads as follows:

[Mrs. V.F.]: Am I coming to your place. Should I file report.

[Corporal Hollingsworth]: I have kids here. No you shouldn't. We will talk n.

[274] Although it is clear from this message that Corporal Hollingsworth did tell Mrs. V.F. not to report the incident, these words need to be put into context.

[275] Corporal Hollingsworth acknowledges that she sent this text message to Mrs. V.F., however, her position is that she had little information about what had occurred at the property owned by Mr. G.M. and Mrs. D.M. and needed to speak with Mrs. V.F. to obtain more information from her. She was not present when the incident occurred.

[276] I do not take Corporal Hollingsworth's words, nor do I think that Mrs. V.F. took the words to be an unequivocal "no – never report this". The comment was clearly intended to merely delay the reporting of the incident until Corporal Hollingsworth had acquired more information. This would have put her in a better position to advise Mrs. V.F. as to the appropriate course of action.

[277] The additional comment in the text string, "Keep me informed", demonstrates that Corporal Hollingsworth was not leaving this matter alone. She wanted to continue her involvement in it. Once she obtained the details of the incident, an informed decision could be made. This is a perfectly rational decision and sound course of action for an investigator to take.

[278] We will never know if Corporal Hollingsworth would have ultimately advised Mrs. V.F. to report the incident after she had obtained further details because other events, like the reporting of the matter to Inspector Manj by Mrs. V.F. and the reporting of the matter to Sergeant Knelsen by Constable Freeman, overtook the need for her to make any further decision about reporting. The matter had already been reported. In fact, the telephone call made by Corporal Hollingsworth to Inspector Manj at the office facilitated his return home and the reporting of the matter to him by Mrs. V.F. and ultimately to two other senior Non-Commissioned Officers.

[279] Mrs. V.F. also testified that she chose not to report the incident because of the assessments of Inspector Manj and Constable Freeman that an assault did not take place because Mr. Freeman was justified in using as much force as was necessary to protect his property. She claimed that she was told this by both Constable Freeman and Inspector Manj. She also initially said that she was told this by Corporal Hollingsworth, but later said that she was sure Corporal Hollingsworth was simply present when she was told this by Inspector Manj. She does not have any recollection that Corporal Hollingsworth said anything else.

[280] Mrs. V.F. also made an independent determination not to contact the police. She did not feel that she had been assaulted because Mr. Freeman's actions were merely an uncharacteristic spontaneous reaction to the situation. She also did not want to get him into trouble. She did not want the father of her children charged with assault. So, even if Corporal Hollingsworth had encouraged Mrs. V.F. to report the assault, it is impossible to say that she would have done so.

[281] The Conduct Authority Representative references and provides three cases relative to the issue of obstructing justice. As noted in the *Queen v Levesque*, 2018 ONSC 603, the decision in *R. v Beaudry*, 2007 SCC 5, is the leading case in this area of the law. All of the cases provided by the Conduct Authority Representative deal with the exercise of a police officer's discretion not to engage the judicial process. I do not find them very instructive in this case as it relates to Corporal Hollingsworth because I have found that she reported the matter to senior officers of the RCMP. It is these senior officers who chose not to engage the judicial process. Once Corporal Hollingsworth reported the matter upwards in the chain of command, any action on her part that was contradictory to the actions being taken by the senior officers would have been considered insubordinate.

[282] Based on the foregoing, I do not find that this particular has been established.

Particular 4 – Failure to address Mrs. V.F.'s genuine fear

[283] With respect to Corporal Hollingsworth's alleged failure to address Mrs. V.F.'s genuine fear that Mr. Freeman might later attend her residence, I note that, in the text string contained in Particular 5, it is Corporal Hollingsworth who first raised the possibility of Mr. Freeman attending Mrs. V.F.'s residence to Mrs. V.F.'s attention. Corporal Hollingsworth asked Mrs. V.F. if she is worried. Mrs. V.F.'s response is, "Should I be worried?" This was followed by Mrs. V.F. informing Corporal Hollingsworth of the preventative actions she had already taken. These are not the words of someone who was displaying a genuine fear.

[284] Mrs. V.F. clearly testified that she did not have a genuine fear of Mr. Freeman following the incident. This belief was based on her 20-year relationship with him. During these 20 years, they had no arguments, except the one a week prior to the July 20, 2016, incident. Mr. Freeman yelled at the children, but he had never yelled at her prior to that. He had never used physical violence towards her except on this one occasion. She characterized it as an uncharacteristic response to the situation.

[285] Much was made about the fact that Mrs. V.F. took precautions that night to prevent Mr. Freeman from entering her house. She unplugged the garage door opener. She contacted her neighbour to ensure that he was home. The Conduct Authority Representative insists that the fact that she took these preventative actions is evidence that she had a genuine fear of her husband. In my oral decision, I commented on these precautions by way of the following analogy.

[286] There is always a possibility that I may have a fire at my house, so I take precautions which would include not performing risky activities in the house or eliminating things that might cause a fire. Should a fire start, I have taken the precaution of having fire extinguishers readily available. There is a fire hydrant right out front of my house. If all else fails, I have fire insurance. I have taken a number of precautions to prevent, put out and/or repair fire damage to my house, but this does not mean I have a genuine fear that I will have a fire in my house, it simply means that I am being prudent. Similarly, the precautions taken by Mrs. V.F. did not demonstrate that she had a genuine fear that Mr. Freeman would attend her residence, she was simply being prudent by taking a few precautions.

[287] The lack of fear on the part of Mrs. V.F. is also demonstrated by the fact that she took no action to change the locks on her residence for a week after the incident. She testified that the changing of the locks was not necessarily out of fear of Mr. Freeman, but rather to prevent him from entering her residence and accessing her personal property while she was away on holiday. She also had Mr. Freeman at her house, unescorted, to pick up the children for a camping trip. Not only was she not fearful of him, she invited him into the house to talk.

[288] The evidence does not demonstrate that Mrs. V.F. had a genuine fear of Mr. Freeman attending her residence later that night or at any other time following the incident of July 20, 2016. Notwithstanding this, I heard evidence of the following actions taken by Corporal Hollingsworth or actions taken by others that were known to her:

- Corporal Hollingsworth offered to have Mrs. V.F. and her children spend the night at their house. Mrs. V.F. refused this offer.
- Corporal Hollingsworth offered to spend the night at Mrs. V.F.'s residence when Mrs. V.F. refused to stay at their house. Mrs. V.F. refused this offer.

- Corporal Hollingsworth made a telephone call to Mrs. V.F. later in the evening to check on her well-being.
- Mr. G.M. and Mrs. D.M. were contacted because they knew a locksmith or garage door service provider. Mrs. V.F. was provided the name of this person, but she did not avail herself of this opportunity until a week after the July 20, 2016, incident.
- Mrs. V.F. had locked the doors to the house.
- Mrs. V.F. had unplugged the garage door opener so that the garage door could not be opened with the remote control in Mr. Freeman's possession.
- Mrs. V.F. had contacted her neighbours, thereby alerted them to the possibility that Mr. Freeman could attend the residence after the confrontation. The neighbour was described as being "huge".

[289] I do not know what more Corporal Hollingsworth could or should have done to address the situation. The Conduct Authority Representative has not informed me of any other specific actions that she should or could have taken other than reporting the matter to Kitscoty Detachment, which is something I have already found she was not obliged to do once other senior officers of the RCMP were informed of the incident.

[290] Given the foregoing, I find that this particular has not been established.

Concluding remarks on Allegation 3

[291] On the basis of the foregoing, I find that this allegation has not been established.

General comments – Allegations 4 and 5

[292] Both Allegations 4 and 5 were brought under section 8.1 of the Code of Conduct, which reads: "Members provide complete, accurate and timely accounts pertaining to the carrying out of their responsibilities, the performance of their duties, the conduct of investigations, the actions of other employees and the operation and administration of the Force." Particular 4 of both allegations is set out in a number of sub-particulars. Each sub-particular is like a mini-allegation, which needs to be addressed separately.

[293] These two allegations are not included in the original mandate letter. There was no investigation conducted into either of these allegations. They simply appeared in the *Notice of Conduct Hearing*. Consequently, Corporal Hollingsworth had no knowledge that these allegations were forthcoming until she was served the *Notice of Conduct Hearing*. The Member Representative pointed this out on a number of occasions. In the absence of an investigation, it appears that the allegations are derived from someone's interpretation of the evidence in the investigation material as it related to what Corporal Hollingsworth said in her statements. Corporal Hollingsworth was not provided an opportunity to explain what she meant by any of her statements prior to the *Notice of Conduct Hearing* being served. I think that if they had, a number of these sub-particulars would not have appeared in the *Notice of Conduct Hearing*.

[294] I note that it is difficult to assess the veracity of a single sentence or phrase extracted from a lengthy narrative or series of questions and answers without the full context of the sentence or phrase. Failure to consider a sentence or phrase in context with other portions of the statement surrounding it and in relation to other evidence can only lead to misinterpretation of what is actually being said. I feel that this is what occurred here, particularly in the absence of any form of explanation from Corporal Hollingsworth. I will now move on to my examination of the individual allegations.

Evidence and findings – Allegation 4

[295] The fourth allegation is under section 8.1 of the Code of Conduct and states that Corporal Hollingsworth failed to provide a complete and accurate account pertaining to the carrying out of her responsibilities, the performance of her duties and the actions of other employees. The allegation relates specifically to a “voluntary warned statement” that Corporal Hollingsworth provided to Sergeant Spaans and Corporal Folk on December 22, 2016.

[296] The Conduct Authority Representative argues that I should not consider Corporal Folk's testimony because it goes to the heart of the matter upon which I must decide and further that her opinion is irrelevant as to whether or not the various statements are false or misleading. I do not agree.

[297] Corporal Folk testified that the statement from Corporal Hollingsworth was the last of approximately 26 statements obtained by the investigative team of Sergeant Spaans and Corporal Folk. The investigation was in relation to a harassment complaint(s) against Inspector Manj. Corporal Folk further testified that the investigators had initially determined that, in light of Corporal Hollingsworth's marital relationship with Inspector Manj, a statement would not be obtained from her. However, on reflection, the investigators decided that, given the prevalence of her involvement in the statements of other witnesses, a statement from her was necessary. The investigators had already departed the "location" so they opted to obtain the statement by telephone. Based on the Board's experience as an investigator, the taking of a statement by telephone, although acceptable, is not an optimal or even desirable practice. This is because the investigator can only assess the witness's veracity by the words that are spoken and possibly voice inflections. The investigator is not afforded the opportunity of observing body language and other physical indicators, which can be a valuable tool in assessing a witness's truthfulness. The fact that a telephone statement is not optimal was very briefly acknowledged during the hearing.

[298] Additionally, given the purpose of the statement, Corporal Hollingsworth was, to coin an old phrase, "stuck between a rock and a hard place". The statement she provided was in direct relation to a harassment investigation initiated by the Conduct Authority. In this context, Corporal Hollingsworth was duty bound, as a member of the RCMP, to provide a complete and accurate account of not only her actions, but the actions of other employees. However, she was providing a statement that could have grave implications for her husband and his career because he was the subject of the investigation. She was clearly in a position of highly divided loyalty and obligation. Given the circumstances, it was not unreasonable for her to try to present her husband in the best possible light. I see nothing wrong with that, but she could not cross the line to mislead or deceive, a line that can be very fine. It is clear that some of the witnesses were doing everything in their power to present Inspector Manj and Corporal Hollingsworth in the worst possible light. I heard no one taking issue with that.

[299] Allegation 4 reads as follows:

Allegation 4

On or about December 22, 2016, at or near Chilliwack in the Province of British Columbia, Corporal Tammy Hollingsworth failed to provide a complete

and accurate account pertaining to the carrying out of her responsibilities, the performance of her duties, and the actions of other employees, contrary to section 8.1 of the Code of Conduct of the Royal Canadian Mounted Police.

Particulars of the contravention:

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted at the Lloydminster Detachment in “K” Division.
2. At all material times you were married to the OIC of Lloydminster RCMP Detachment Inspector Sukhjit Manj and possessed detailed knowledge of both his personal and professional responsibilities.
3. [Mrs. D.R.] was a municipal employee at the Lloydminster RCMP Detachment. You were close personal friends with [Mrs. V.F.] and deliberately decided to become involved in her personal marital issues. [Mrs. V.F.] was the estranged spouse of Cst. Mark Freeman (“Cst. Freeman”). Cst. Freeman is the RCMP dog handler posted to Lloydminster Detachment and was residing in a rented room on the property of [Mr. G.M.] and [Mrs. D.M.]. The underlying motive as to why you purposefully became involved in the private affairs of both Cst. Freeman and [Mrs. D.R.] was that you simply could not accept that he and [Mrs. D.R.] were involved in a close private relationship.
4. On December 22, 2016, you provided a voluntary warned statement to Corporal Erin Folk and Sergeant John Spaans by telephone from Chilliwack. Your voluntary statement included false and misleading information:
 - a) You falsely told the investigators that you kept the information provided in confidence to you by [Mrs. D.R.] with respect to her marital problems secret.
 - b) You falsely told the investigators that you never openly discussed the personal and private affairs of both Cst. Freeman and [Mrs. D.R.] with [Mrs. D.M.], [Mr. G.M.] or work colleagues.
 - c) You falsely told the investigators that you were not personally involved in [Mrs. V.F.] learning firsthand about the relationship between [Mrs. D.R.] and Cst. Freeman: “I didn’t tell her that I suspected at anything I didn’t do anything I just she needed to know and she needed to find out on her own and she did.”
 - d) You falsely stated that you never discussed the personal and private affairs of both Cst. Freeman and [Mrs. D.R.] with Inspector Manj.
 - e) You falsely stated that you had no involvement with the decisions made by the [Mrs. D. M.] with respect to the recording of the private and personal affairs of [Mrs. D.R.] and Cst. Freeman: “Absolutely and they are totally against infidelity obviously and cheating and um it was not gonna happen on their property that’s the end and what they saw didn’t sit well with them and they did what they needed to do. I

had you know nothing to with the decisions they made or what they did.”

- f) You purposefully sought to downplay your involvement to investigators and created a false version of events in which [Mrs. V.F.] actively sought out the assistance of [Mrs. D.M.] by meeting with her prior to the physical confrontation and directly asking for [Mrs. D.M.’s] assistance in gaining knowledge concerning Cst. Freeman’s private affairs.
- g) You falsely stated that you never shared details with [Mrs. V.F.] of the work schedule of Cst. Freeman, including when he was on or off duty, at training courses or if he left early from work.
- h) You falsely stated with respect to the truck on the [Mr. G.M. and Mrs. D.M.] property on July 20, 2016, that: “We had no idea who was in the truck.”
- i) You falsely stated that the encounter between [Mrs. V.F.], [Mrs. D.R.] and Cst. Freeman was not planned: “I said this definitely wasn’t planned it just happened. And it happened for the best I think it all well is some in cases but not what we are going through now.”
- j) You purposefully downplayed Inspector Manj’s knowledge and level of involvement and thus, were not truthful with investigators.
- k) You falsely stated that you never talked to [Mrs. D.R.] about having an affair with Cst. Freeman and falsely stated that in the May 19, 2016, telephone conversation you had with [Mrs. D.R.] that you never told her that she had to come clean about the affair because: “No. It wasn’t my place I”

[Sic throughout]

[300] The facts in the first three particulars have already been found to have been established. Particular 4 is the only outstanding and the most critical particular of this allegation. This particular contains 11 specific statements made by Corporal Hollingsworth which the Conduct Authority alleges were false or misleading.

Allegation 4 – Sub-particular 4 a)

[301] The first sub-particular is the general statement, “You falsely told investigators that you kept the information provided in confidence to you by [Mrs. D.R.] with respect to her marital problems secret.” The sub-particular does not include a reference to any specific statement.

[302] In the submissions on the allegations, the Conduct Authority Representative pointed to pages 6, 20 and 21 of the statement as being relevant to this sub-particular.

[303] At page 6, Corporal Hollingsworth spoke about the conversation she had with Mrs. D.R. in the bedroom of her home following the Detachment Levee in November 2015. During this conversation, Mrs. D.R. informed Corporal Hollingsworth that her husband, Mr. D.R., had done something so terrible that she no longer trusted him and was going to be leaving him the following May. Mrs. D.R. would not tell Corporal Hollingsworth what that “something” was, but hinted it was serious and something that she would take to her grave. She implored Corporal Hollingsworth not to discuss their conversation with anyone, including Mr. S.M. Corporal Hollingsworth became so worried about what the “something” might be, she followed up with Mrs. D.R. to make sure that it was nothing criminal. She wanted to keep Mrs. D.R.’s secret as a friend. Mrs. D.R. was so insistent about not telling anyone that she became very paranoid. In fact, she stated that because of Mrs. D.R.’s insistence, she became so paranoid that she deleted all of the text messages relating to this so that Mr. Manj would not find out.

[304] In their closing submissions, the Conduct Authority Representative asked me to take note that Corporal Hollingsworth did not keep secret the information Mrs. D.R. had told her concerning her marital relations. I was directed to answers in her testimony, particularly Volume 4, pages 160 and 165, which, according to the Conduct Authority Representative, demonstrate Corporal Hollingsworth’s evasiveness and possible excuse for having misled the investigators.

[305] The line of questioning referred to by the Conduct Authority Representative related to Corporal Hollingsworth’s denial that she spoke to Mrs. D.R. about her relationship with Mr. Freeman. This does not speak to this sub-particular. This sub-particular deals with whether or not Corporal Hollingsworth told anyone about the secret that Mrs. D.R. told her during the bedroom conversation following the Detachment Levee, not her relationship with Mr. Freeman.

[306] In her statement, Corporal Hollingsworth informed the investigators that she told Mr. Manj and the circumstances surrounding this disclosure. In the questions and answers exchange beginning at page 20, line 672, and ending at page 21, line 699, Corporal Hollingsworth clearly told the investigators that she told Mr. Manj sometime in May. Although she is not specific about what she told Mr. Manj, she was clear that she told him something about what she had previously kept secret

from him. This occurred after Inspector Manj had a telephone conversation with Mrs. D.R. during which she denied that there was anything going on between herself and Mr. Freeman. Corporal Hollingsworth not only told the investigators, but while doing so, she was scrolling through her telephone to find text messages to support what she was saying.

[307] Given this, the sub-particular, as it is written, is not established.

Allegation 4 – Sub-particular 4 b)

[308] The second sub-particular is also a general statement and does not include a reference to any specific contents of the statement. The sub-particular states that Corporal Hollingsworth falsely told investigators that she never openly discussed the personal and private affairs of both Mr. Freeman and Mrs. D.R. with Mr. G.M., Mrs. D.M. or work colleagues.

[309] In her subsection 15(3) *CSO (Conduct)* response to the allegations, Corporal Hollingsworth states that she is unable to pinpoint a particular statement that coincides with this sub-particular. She adds that she did not intend to be inaccurate or to mislead the investigators.

[310] Finally, the overall content of the statements and the totality of the evidence does not support this sub-particular. In their submission, the Conduct Authority Representative directed me to page 8, lines 235 to 246 of the statement as supporting the sub-particular. The passage reads as follows:

[235] I never asked anybody to do anything I don't I did this all on my
[236] own I took I **the only person I talked we talked to is the**
[237] **[Mr. G.M. and Mrs. D.M.]** and we never even brought up names cause
I guess
[238] Suki was walking down when Suki and I were dealing with this.
[239] Suki was out and about and he ran into [Mr. G.M.] in
[240] town and [Mr. G.M.] kind of like eh what's up, you know you are not
[241] yourself and he's like ohh you know the old stuff and what do
[242] you mean call it a night and you know just go over and have
[243] some supper and whatever we did. And **we brought it up** that
[244] **we've been just going through stuff** as a friend and just
[245] kind of through it by them like saying **what would you guys do**
[246] like. And they were kind of like looking at us a little bit weird and
[247] and like they knew something and it was strange cause we
[248] never mentioned names we never never talked anything about
[249] that and then she says well we've been noticing things around
[250] our house too. We are like what do you mean and then **she was**

[251] **nah going on about** you know different vehicle showing up at
[252] the house and they knew Mark had been separated and stuff so
[253] whatever but just the behavior about people being in disguise
[254] and rushing in and the way he parked, he parks and the way
[255] other vehicles have been parking to so this person can get up
[256] the stairs and into the house really quickly and **they just found it**
[257] **odd** and so **we talked about that and shared our concerns**
[258] and stuff about that so **we had no idea who to talk to** and by
[259] then, by then I had you know Suki and I had talked about it
[260] to really understand what was going on or you know we had our
[261] suspicions but there was nothing we could prove until it
[262] came out but um, ...

[Emphasis added]

[311] This excerpt actually proves the opposite of the sub-particular. Corporal Hollingsworth does not deny talking about the personal affairs of Mrs. D.R. and Mr. Freeman with Mr. G.M. and Mrs. D.M. Rather, she clearly told the investigators that they did discuss these matters, at least as far as what was taking place on the property of Mr. G.M. and Mrs. D.M and their concerns relating to what was going on.

[312] The Conduct Authority Representative also pointed me to portions of Corporal Hollingsworth's testimony where she apparently admitted to speaking with Mrs. V.F. about Mrs. D.R. being on stress leave. I was also pointed to two text messages where information about Mrs. D.R. returning to work was being discussed with Mrs. D.M. However, the problem with the submission is that the Conduct Authority Representative has not concurrently pointed to anywhere in the statement where Corporal Hollingsworth has denied speaking about Mrs. D.R. or Mr. M.F. In the absence of specific statements, other than the one referred to me by the Conduct Authority Representative, I cannot find that the sub-particular has been established.

[313] Corporal Hollingsworth has been forthcoming about whom she spoke to and what was spoken about in relation to the personal affairs of Mrs. D.R. and Mr. Freeman. Therefore, I cannot find that this sub-particular is established.

Allegation 4 – Sub-particular 4 c)

[314] The third sub-particular alleges that Corporal Hollingsworth falsely told investigators that she was not personally involved in Mrs. V.F. learning firsthand about the relationship between Mrs. D.R.

and Mr. Freeman. This sub-particular cites a specific passage from the statement which reads, “I didn’t tell her that I suspected at anything I didn’t do anything I just needed to know and she needed to find out on her own and she did.” This sentence is found at page 14, lines 447 and 449 of the statement.

[315] In her subsection 15(3) *CSO (Conduct)* response to the allegations, Corporal Hollingsworth stated that, in the totality of the evidence, she made it clear that she did not have a role in Mrs. V.F. attending the property owned by Mr. G.M. and Mrs. D.M. on July 20, 2016.

[316] Furthermore, the statement that Mrs. V.F. found out on her own is true in the sense that Corporal Hollingsworth did not tell Mrs. V.F. about Mrs. D.R. and her husband because she was not sure that it was in fact Mrs. D.R. The Conduct Authority Representative pointed me to page 12, lines 428 through 447 of the statement to support their position. This passage reads as follows:

[Hollingsworth]... way it came out and I knew eventually it would come out and the way it came out it’s it happened and kind of worked out because it was her friend who one of her friends who actually is her neighbor who works with [Mr. D.R.] so.

[Folk] OK let’s talk about that. Tell me how that happened.

[Hollingsworth] Yes so let’s see on March when was that. March, it was June twenty twentieth I think I get a text message from what is it see here from [Mrs. D.R.], no not from [Mrs. D.R.] just going through my some of these text messages I just printed out um.

[Folk] Can you send us those text messages?

[Hollingsworth] I have them all printed out and I have to still do the ones of [Mrs. V.F.] but these are the ones from [Mrs. D.M.].

[Folk] OK yeah if you could send those.

[Hollingsworth] Cause it lays everything out exactly how it happened that there was no ill will on me there was no intent for for anything to go bad it was just [Mrs. V.F.] finding out and I couldn’t say for sure it was [Mrs. D.R.] so I didn’t say so ...

[Folk] Right

[Hollingsworth] I didn’t tell her anything.

[Folk] Uh-huh

[Hollingsworth] I didn’t tell her that I suspected at anything I didn’t do anything I just she just needed to know and she needed to find out on her own and she did.

[317] I referred to a portion of the same excerpt appearing at lines 421 to 430 of the statement, which reads:

[Hollingsworth] And I had a friend who didn't know what was going on and her husband was doing all this while they were together and I couldn't tell her about it and I didn't tell her about it what I knew because I didn't know for sure I would never say something unless I knew it for sure and um, what was happening at the [property owned by Mr. G.M. and Mrs. D.M.] and what I knew from that still I couldn't tell her. It had to come out and I knew eventually it would come out and the way it came out it's it happened the way it happened and kind of worked out because it was her friend who one of her friends who actually is her neighbour who works with [Mr. D.R.] so. ...

[318] The sub-particular and the statement used to support it are not congruent. There is a significant difference between Corporal Hollingsworth saying that she was not personally involved and a statement in which she says she did not tell Mrs. V.F. about her husband's affairs. Personal involvement and not telling are two very different things. The evidence clearly supports that Corporal Hollingsworth was involved in Mrs. V.F.'s attendance to the property owned by Mr. G.M. and Mrs. D.M. on July 20, 2016, where she learned firsthand of the personal relationship between Mr. Freeman and Mrs. D.R. Corporal Hollingsworth has admitted to this. However, the evidence also supports that Corporal Hollingsworth did not tell Mrs. V.F. about her suspicions about her husband's affair prior to that date. The evidence clearly supports that the first time Mrs. V.F. "put two and two together" was earlier in the day on July 20, 2016, when she had a conversation with her neighbour who told her what Mr. D.R. had disclosed to them at their party. The following text message exchange between Mrs. V.F. and Corporal Hollingsworth, beginning at page 860 of the investigation binder, confirms this. The text message exchange reads as follows:

[Mrs. V.F.]: So I talked to my neighbour about [Mrs. D.R.] and she heard that she was sleeping with someone at the office!!! Mark???

[Subject Member]: Lol ... yes, no kids dinner at OJ's with [two friends]. We have never done that so we are going to do it.

[Mrs. V.F.]: She also said that [Mr. D.R.] is her boss so she would never repeat that!

Have you heard anything?

Dinner out will be awesome!!

I wonder if it would be easier to know that he's with someone else?

Hello?? No comment? Lol

You promised to tell me if you ever heard anything!

[Subject Member]: Just getting ready and making kids supper. Wtf ... did she say more than that?!

[Mrs. V.F.]: No she just heard that [Mrs. D.R.] may have been fired for sleeping with someone from work.

Of course I assume Mark

[Subject Member]: Well maybe that is what people are thinking that why we are moving. That her and Suki

[Mrs. V.F.]: You haven't heard any gossip? I am dying to know

If I heard something then I would be asking for more

[Subject Member]: Drop the kids off and go talk to mark about it.

[319] It is clear that even at this point, Corporal Hollingsworth was still avoiding answering her friend's questions as to whether or not she knew of the relationship between her husband and Mrs. D.R. Based on this text message alone, I find that Corporal Hollingsworth did not tell Mrs. V.F. about her suspicions prior to Mrs. V.F. learning firsthand about the relationship and that it occurred exactly as Corporal Hollingsworth said it did in her statement. Therefore, I cannot find that this sub-particular is established.

Allegation 4 – Sub-particular 4 d)

[320] The fourth sub-particular is a simple statement that Corporal Hollingsworth falsely stated that she never discussed the personal and private affairs of both Mr. Freeman and Mrs. D.R. with Mr. Manj. The sub-particular is not supported by any particular reference to the statement.

[321] In her subject 15(3) *CSO (Conduct)* response to the allegations, Corporal Hollingsworth conceded that she and Mr. Manj discussed the flirting that they observed at their residence following the Detachment Levee in November 2015. She also conceded the contents of the questions and answers exchange beginning at page 20, line 672, and ending at page 21, line 699, in which she clearly told the investigators that she told Mr. Manj sometime in May 2016 about at least a portion of her conversation with Mrs. D.R. following the Detachment Levee in November 2015.

[322] The Conduct Authority Representative submitted that because they were excessively constrained, they had a limited ability to obtain evidence from Inspector Manj I noted that

constraints, if any, were the product of the current conduct process. I further noted that the constraints, if any, did not prevent the Conduct Authority Representative from identifying portions of Corporal Hollingsworth's statement where she specifically said that she never discussed the personal affairs of Mr. Freeman and Mrs. D.R., as alleged.

[323] In the absence of any specific statement where Corporal Hollingsworth expressly told the investigators that she and Mr. Manj did not discuss the personal affairs of Mr. Freeman and Mrs. D.R., I cannot find that this sub-particular has been established.

Allegation 4 – Sub-particular 4 e)

[324] The fifth sub-particular states that Corporal Hollingsworth falsely stated that she had no involvement with the decisions made by Mr. G.M. and Mrs. D.M. with respect to the recording of the private and personal affairs of Mr. Freeman and Mrs. D.R. This sub-particular is supported by reference to a specific statement which appears on page 23 of the statement, beginning at line 755. The quote reads as follows:

Absolutely and they are totally against infidelity obviously and cheating and um it was not gonna happen on their property that's the end and what they saw didn't sit well with them and they did what they needed to do. I had you know nothing to with the decisions they made or what they did.

[325] Corporal Hollingsworth submitted that this statement has been taken out of context. It was a response to a question about Mrs. D.M.'s interest in the situation and her moral concerns. The exchange begins with a question from Sergeant Spaans about Mrs. D.M.'s interest in the situation. The question, found at page 22, lines 740 and 741, reads, "With that, what was [Mrs. D.M.]'s interest in this whole situation why was she so involved?" From there, Corporal Hollingsworth proceeded to tell the investigator the same thing that was heard in evidence from Mrs. D.M. about the reasons for their involvement in the situation and her moral concerns about what was taking place on their property.

[326] The Conduct Authority Representative pointed to Corporal Hollingsworth's admission that she did not discourage Mrs. D.M. from doing what she did, suggesting that it supports this sub-particular. They also pointed to two occasions where Corporal Hollingsworth expressly asked Mrs. D.M. about Mr. Freeman's whereabouts.

[327] The sub-particular speaks to Corporal Hollingsworth's involvement in the decision of Mr. G.M. and Mrs. D.M. to record information about Mr. Freeman and Mrs. D.R. Not discouraging them is actually the absence of involvement in their decisions. Simply asking questions about Mr. Freeman's whereabouts is a far cry from being involved in the decision made by Mr. G.M. and Mrs. D.M. to record information. The information sought by Corporal Hollingsworth may have already been recorded.

[328] Finally, Mrs. D.M. came across in her statements and testimony as being a very strong-willed person who was determined to be involved in helping Mrs. V.F. and protecting the reputation of their family business. I doubt that there would have been much that Corporal Hollingsworth could have done to dissuade her from her course of action.

[329] I found nothing false or misleading about what Corporal Hollingsworth said. It is strongly supported in the evidence by Mrs. D.M. and Mr. G.M.'s testimony and the text messages. Therefore, I cannot find that this statement is false or misleading.

Allegation 4 – Sub-particular 4 f)

[330] The sixth sub-particular states that Corporal Hollingsworth purposely sought to downplay her involvement and created a false version of events in which Mrs. V.F. actively sought out the assistance of Mrs. D.M. by meeting with her prior to the physical confrontation and by directly asking Mrs. D.M.'s assistance in gaining knowledge concerning Mr. Freeman's private affairs. Again, this sub-particular is not supported by any particular statements attributable to Corporal Hollingsworth.

[331] In their submission, the Conduct Authority Representative indicated that the relevant section of the statement is found on pages 26 through 32. Again, what the sub-particular alleges and what the Conduct Authority Representative has identified as the appropriate references to the sub-particular do not align. The sub-particular speaks of two specific things, Corporal Hollingsworth's involvement in the meeting with Mrs. D.M. at a coffee shop a few days before the July 20, 2016, incident and Corporal Hollingsworth's involvement in asking Mrs. D.M. to assist in gaining knowledge concerning Mr. Freeman's private life, whereas the pages referenced by the Conduct Authority Representative essentially contain Corporal Hollingsworth's recitation from the text

message exchange with Mrs. V.F. about how the July 20, 2016 incident on the property of Mr. G.M. and Mrs. D.M. came about. At line 1037, Sergeant Spaans said that he had a very vivid picture of what had taken place.

[332] Corporal Hollingsworth, in her subsection 15(3) *CSO (Conduct)* response to the allegations, more appropriately pointed to lines 759 and 772, which speak directly to the meeting between Mrs. D.M. and Mrs. V.F. This is the same portion of the statement that has already been discussed. The comments in the statement accord with other evidence in the Record, including statements, text messages and testimony. Therefore, I cannot find this sub-particular to be established.

Allegation 4 – Sub-particular 4 g)

[333] The seventh sub-particular states that Corporal Hollingsworth falsely stated that she never shared details of Constable Freeman's schedule, including when he was on or off duty, on training courses or if he left early from work, with Mrs. V.F. Again, there is no specific statements in the sub-particular to support this contention.

[334] The only specific evidence that the Conduct Authority Representative referenced to support this sub-particular is that, during cross-examination, Corporal Hollingsworth admitted to sending Constable Freeman's shift schedule to Mrs. V.F. via a text message. However, this was done unintentionally. This admission is contrary to what Corporal Hollingsworth said at page 27, line 1892, of her statement, in which she gave the unequivocal response of "no" to the question of whether she ever shared with Mrs. V.F. when Constable Freeman was on duty, off duty or leaving work early. These questions appear at lines 890 to 897 of her statement.

[335] Corporal Hollingsworth, in her subsection 15(3) *CSO (Conduct)* submission, noted that she was not asked about providing Constable Freeman's training schedule and suggested that lines 890 to 897 support that she did not provide information regarding Constable Freeman's schedule. The Conduct Authority has not demonstrated that she was asked about Constable Freeman's training schedule and denied it. Therefore, I cannot find that this portion of the sub-particular is established.

[336] With respect to the remainder of the sub-particular, there is evidence that Corporal Hollingsworth shared information with Mrs. V.F. about when Constable Freeman was on and off duty.

[337] The Member Representative submitted that Corporal Hollingsworth had no intention to mislead. She was only thinking that the question related to prior to the July 20, 2016 incident. In light of the Member Representative's submission, I feel that it is appropriate to consider Corporal Hollingsworth's response in context with her overall conduct in both the statement and during her testimony. Throughout her statement, as Corporal Folk noted, she demonstrated that Corporal Hollingsworth was "eager to tell us everything she knew to her own detriment. She was honest even when the truth was not showing her in the best light." Her voluntary provision of the text messages, which are now being used to prove this alleged false and misleading statement, is a further example of her willingness to be forthcoming with the truth. It is certainly understandable that a question, at least the context of a question, could be misunderstood. I accept this explanation. Therefore, I find that she did not intend to mislead, but rather was simply mistaken about what she was being asked.

[338] Therefore, I find that this sub-particular is not established.

Allegation 4 – Sub-particular 4 h)

[339] The eighth sub-particular simply states that Corporal Hollingsworth falsely stated that, "We had no idea who was in the truck", referring to the red truck that attended the property owned by Mr. G.M. and Mrs. D.M. on July 20, 2016. This particular was struck by the Conduct Authority Representative during the conduct hearing.

Allegation 4 – Sub-particular 4 i)

[340] The ninth sub-particular states that Corporal Hollingsworth stated that the encounter between Mrs. V.F., Mrs. D.R. and Mr. Freeman was not planned. The following statement is used to support this sub-particular, "I said this definitely wasn't planned it just happened. And it happened for the best I think it all well in some cases but not what we are going through now." This citation appears at page 31, lines 1032 through 1034, of her statement.

[341] Corporal Hollingsworth, in her subsection 15(3) *CSO (Conduct)* response to the allegations, submitted that the extent of the planning and her involvement in the encounter between Mr. Freeman and Mrs. V.F. was disclosed in her statement. Mrs. D.R., although present at the suite, was not involved in the encounter.

[342] The Conduct Authority Representative conceded that although “the stars aligned” for the encounter to happen, there were elements of the encounter that were planned. I have already discussed the extent of the planning of the encounter. It was minimal as the concession that “the stars aligned” suggests.

[343] Corporal Hollingsworth’s explanation or account of how the events unravelled begins at page 27, line 903, of her statement and runs through to roughly page 31, line 1052. In this narrative and the questions and answers exchange, Corporal Hollingsworth set out her involvement in a way that corresponds to the evidence, predominantly because she was reading from the text messages that were being exchanged as the day’s events unfolded.

[344] Given the foregoing, I cannot find that this sub-particular has been established.

Allegation 4 – Sub-particular 4 j)

[345] This sub-particular states that Corporal Hollingsworth was not truthful because she downplayed Mr. Manj’s knowledge and level of his involvement.

[346] This sub-particular was discussed by the Conduct Authority Representative jointly with sub-particular 4 d). The Conduct Authority Representative submitted that because they were excessively constrained in examining Inspector Manj, they had a limited ability to obtain evidence from Inspector Manj. My comments in relation to this submission are the same as they were in sub-particular 4 d).

[347] The Conduct Authority Representative did provide several examples of evidence supporting the level of Mr. Manj’s involvement in this matter. These included six references to the various text messages and several aspects of Corporal Hollingsworth’s testimony where she discussed Mr. Manj’s involvement. This is all well and good, but the Conduct Authority Representative did not specifically identify where in her statement Corporal Hollingsworth made any statements that downplayed Mr. Manj’s involvement. In the absence of any specific statements or sets of statements that demonstrate Corporal Hollingsworth downplayed Mr. Manj’s involvement in this matter, I cannot find that this sub-particular is established.

Allegation 4 – Sub-particular 4 k)

[348] The eleventh and final sub-particular in this allegation states that Corporal Hollingsworth falsely stated that she never talked to Mrs. D.R. about having an affair with Mr. M.F. and falsely stated in their telephone conversation Corporal Hollingsworth on May 19, 2016, that she never told Mrs. D.R. to come clean about her affair, because, “No. It was not my place I.” This single statement appears on page 40, line 1321, of her statement. The comment is made specifically in response to the question, “So you but you didn’t tell her that she had to come clean about Mark.”

[349] Corporal Hollingsworth’s position in her subsection 15(3) *CSO (Conduct)* response to the allegations was that the statement needed to be put into context.

[350] On its own, the statement is clearly false in relation to the question that was asked, but the entire exchange about the May 19, 2016, telephone conversation begins at page 36, line 1198, of the statement. During the exchange, Corporal Hollingsworth goes to great lengths to explain to investigators that she wanted Mrs. D.R. to come clean about her involvement because Inspector Manj had found out about the “Ricki Rumour”.

[351] The Conduct Authority Representative claimed that the single statement contradicts other evidence in the Record, specifically Mrs. D.R.’s version of events beginning at page 4, line 128, of the statement she provided to Sergeant Morton.

[352] The single statement does contradict what Mrs. D.R. said in that statement; however, for almost four pages of her statement, Corporal Hollingsworth discussed the circumstances surrounding the May 19, 2016, telephone conversation which were quite similar to what Mrs. D.R. said about it.

[353] I do not find that a single statement, taken out of context from the statement in which it was provided, and in light of all of the other evidence, could be found to be a false and misleading statement for the purposes of this proceeding. Therefore, I cannot find that this sub-particular is established.

Conclusion – Allegation 4

[354] None of the sub-particulars in Particular 4 were established. Therefore, I cannot find that the allegation itself is established.

Evidence and findings – Allegation 5

[355] The fifth allegation is under section 8.1 of the Code of Conduct and alleges that Corporal Hollingsworth failed to provide a complete and accurate account pertaining to the carrying out of her responsibilities, the performance of her duties and the actions of other employees. The allegation relates specifically to a “voluntary warned statement” that Corporal Hollingsworth provided to Sergeant Lovie on July 3, 2017. This statement was taken in direct relation to the three allegations contained in the mandate letter signed by Chief Superintendent Jodie Boudreau on February 20, 2017.

[356] The allegation reads as follows:

Allegation 5

On or about July 3, 2017, at or near Chilliwack in the Province of British Columbia, Corporal Tammy Hollingsworth failed to provide a complete and accurate account pertaining to the carrying out of her responsibilities, the performance of her duties, and the actions of other employees, contrary to section 8.1 of the Code of Conduct of the Royal Canadian Mounted Police.

Particulars of the contravention:

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted at the Lloydminster Detachment in “K” Division.
2. At all material times you were married to the OIC of Lloydminster RCMP Detachment Inspector Sukhjit Manj and possessed detailed knowledge of both his personal and professional responsibilities.
3. [Mrs. D.R.] was a municipal employee at the Lloydminster RCMP Detachment. You were close personal friends with [Mrs. V.F.] and deliberately decided to become involved in her personal marital issues. [Mrs. V.F.] was the estranged spouse of Constable Mark Freeman (“Cst. Freeman”). Cst. Freeman is the RCMP dog handler posted to Lloydminster Detachment and was residing in a rented room on the property of [Mr. G.M.] and [Mrs. D.M.]. The underlying motive as to why you purposefully became involved in the private affairs of both [Constable M.F.] and [Mrs. D.R.] was that you simply could not accept that he and [Mrs. D.R.] were involved in a close private relationship.
4. On July 3, 2017, you provided a voluntary warned statement to Sergeant John Lovie in Chilliwack. Your voluntary statement included false and misleading information:
 - a) You falsely stated to the investigator that you never told [Mrs. D.M.] details about what you suspected to be an affair between [Mrs. D.R.]

and Cst. Freeman: “[Mrs. D.M.] knew that I was having a difficult time suspecting that [Mrs. V.F.’s] husband may be having an affair, because I never once told her what I knew because it was work related.”

- b) You falsely stated that Suki told you all along not to get involved in the private affairs of [Mrs. V.F.], [Mrs. D.R.] and Cst. Freeman and that you heeded his advice: “Suki and I wanted to stay as far away as this from possible. He told me all along not to get involved. And I didn’t.”
- c) You falsely stated that the physical confrontation between Cst. Freeman and [Mrs. V.F.] had nothing to do with you and that you were not involved: “As a skilled and highly trained RCMP officer, he should’ve used his training and skills to successfully deescalate his upset wife. However, he chose to yell at her and assault her. This was, this is what he chose to do, I didn’t, it didn’t have anything to do with me, nor did I think he would ever do anything like that.”
- d) You falsely stated that: “You never discouraged anyone, including [Mrs. V.F.], from reporting a criminal act.”
- e) You falsely suggested that [Mrs. V.F.] learned that [Mrs. D.R.] used her grandmother’s car to attend the residence of Cst. Freeman from [Mr. D.R.].
- f) You falsely implied that everything [Mrs. V.F.] learned about Cst. Freeman’s work, training schedule and personal schedule was from [Mr. D.R.] and not from you.
- g) You falsely implied that Inspector Manj was not involved with the various text messages and on-going detailed exchange of information with respect to the July 20, 2016, physical confrontation: “And so when, when this all went down I knew minimal details”.
- h) You acknowledged that you had learned intimate details of what was going on between Cst. Freeman and [Mrs. D.R.] because of work gained knowledge, but then deliberately mislead the investigator by stating that you did not get involved because it was work related: “And I know that because it’s work I have to separate personal and work. And I always have. And this was a work thing.”

[Sic throughout]

[357] The particulars associated with this allegation, also found in Particular 4, references eight specific portions of the statement that the Conduct Authority is alleging are false or misleading statements made by Corporal Hollingsworth.

Allegation 5 – Sub-particular 4 a)

[358] The first of the sub-particular states that Corporal Hollingsworth falsely stated that she never told Mrs. D.M. details about what she suspected to be an affair between Mrs. D.R. and Mr. Freeman. The specific statement referenced in the sub-particular reads, “[Mrs. D.M.] knew what I was having a difficult time suspecting that [Mrs. V.F.]’s husband may be having an affair, because I never once told her what I knew because it was work related.” This quotation is found in the opening narrative of the statement.

[359] The way I read this statement is that Corporal Hollingsworth claimed that she did not tell Mrs. V.F., nor Mrs. D.M., about her suspicions. There is evidence that Mrs. V.F. was repeatedly asking Corporal Hollingsworth if she knew anything about her husband having an affair prior to the incident on July 20, 2016. There is no evidence that Corporal Hollingsworth told Mrs. V.F. anything of this nature prior to the July 20, 2016 incident.

[360] Corporal Hollingsworth, Mr. G.M. and Mrs. D.M. clearly stated that, although they had strong suspicions, they did not know for sure that it was Mrs. D.R. who was attending Mr. Freeman’s residence until the July 20, 2016 incident.

[361] The contents of the statement that immediately follow this alleged false or misleading statement speak about Mrs. V.F. asking Corporal Hollingsworth again, after she was told by her neighbour what Mr. D.R. had told the neighbour at a party of Mrs. D.R. having an affair with someone at work. Corporal Hollingsworth stated that she did not reply to that text message. I do not see a reply to the question in the text message string. So, it is clear that Corporal Hollingsworth was avoiding the question and had not, up to that point, told Mrs. V.F. about her suspicions.

[362] Given the foregoing, I cannot find the statement cited in the sub-particular to be false or misleading; therefore, I cannot find this sub-particular to be established.

Allegation 5 – Sub-particular 4 b)

[363] The second alleged false or misleading statement is, “Suki and I wanted to stay as far away from this from possible. He told me all along not to get involved. And I didn’t.” This passage appears on page 5 of the statement at the beginning of a long narrative. Immediately following this,

Corporal Hollingsworth proceeded to provide a detailed account of her involvement on the day of the physical confrontation between Mr. Freeman and Mrs. V.F.

[364] There is evidence to support the first two sentences as being true. It is the “And I didn’t” comment that is the problematic portion of the statement. As the Conduct Authority Representative pointed out, it is undeniable that Corporal Hollingsworth was involved.

[365] This statement was addressed in her cross-examination³⁰. When asked what she meant by the statement, she explained that she did not want to get involved and did not get involved in the financial aspects of Mr. and Mrs. Freeman’s separation discussions.

[366] The Conduct Authority Representative submitted that Corporal Hollingsworth’s interpretation of the question and the response were irrelevant. The fact is Corporal Hollingsworth was involved.

[367] Corporal Hollingsworth provided an explanation of what she meant when she uttered the words. The explanation is not unreasonable and is not contradicted by the evidence. There is no evidence that Corporal Hollingsworth was involved in the financial aspects of Mr. Freeman’s and Mrs. V.F.’s separation. Therefore, I cannot find that this sub-particular, as written, is established.

Allegation 5 – Sub-particular 4 c)

[368] The third sub-particular states that Corporal Hollingsworth falsely stated that the physical confrontation between Mr. Freeman and Mrs. V.F. had nothing to do with her and she was not involved. The portion of the statement cited in support of this claim appears at the bottom of page 5 and the top of page 6 of her statement and reads:

[...] As a skilled and highly trained RCMP officer, he should’ve used his training and skills and successfully de-escalated his upset wife. However, he chose to yell at her and assault her. This was, this is what he chose to do, I didn’t, it didn’t anything to do with me nor did I think he would ever do anything like that. [...]

[369] Notwithstanding that the specific statement does not seem to accord with the narrative of the sub-particular, there are certainly a number of ways to interpret this statement.

³⁰ See Conduct Hearing Transcript, Volume 2, page 125, beginning at line 2.

[370] The Conduct Authority appeared to have interpreted Corporal Hollingsworth as saying that she had nothing to do with the physical confrontation between Mr. Freeman and Mrs. V.F on July 20, 2016, and that she was not involved. Interpreted in the broad context of the entire matter, this statement would certainly be false. Corporal Hollingsworth had involvement in the entire matter and also had involvement in Mrs. V.F.'s attendance to the property owned by Mr. G.M. and Mrs. D.M. on July 20, 2016. This appears to be the level at which the Conduct Authority Representative would have me interpret the statement. However, if the statement is interpreted to mean that Corporal Hollingsworth had no involvement with the physical confrontation as it happened at that moment, then the statement is true.

[371] The confrontation was about the break-up of the marriage of Mr. Freeman and Mrs. V.F. This was a private affair between them as was the confrontation. Corporal Hollingsworth was not present on the property owned by Mr. G.M. and Mrs. D.M. when the confrontation occurred.

[372] The most reasonable interpretation of the statement is that Mr. Freeman was responsible for his own actions in response to his wife showing up at his residence unexpectedly while Mrs. D.R. was there. As a police officer, he had been trained to defuse or de-escalate volatile situations. He did not act according to his training and instead took actions that escalated the situation rather than de-escalated it. He was responsible for his actions, not Corporal Hollingsworth. Given that there is more than one plausible interpretation of the statement, I cannot find that this statement is false or misleading.

Allegation 5 – Sub-particular 4 d)

[373] The fourth alleged false statement as quoted in the sub-particular reads, “You have never discourage anyone, including [Mrs. V.F.] from reporting a criminal act.” This statement appears at page 7 of Corporal Hollingsworth's statement.

[374] The only evidence before me that hints of Corporal Hollingsworth discouraging anyone, including Mrs. V.F., from reporting a criminal act has already been discussed. That is the single statement referred to in paragraph 273 of the present decision. As I have already noted, it is clear that Corporal Hollingsworth was discouraging Mrs. V.F. from reporting a criminal act at that moment – not ever – just at that moment. The remainder of my analysis of that statement remains the same

here. In support of that analysis, I note that Corporal Hollingsworth's very next statement was, "I was diligent in immediately reporting it to the O i/c of the Detachment who I trusted would follow up as necessary and make sure it was handled and investigated properly." Therefore, I cannot say that this statement is false or misleading. Not only did Corporal Hollingsworth not discourage Mrs. V.F. from reporting the alleged assault on her, she facilitated the reporting of the incident to Inspector Manj.

Allegation 5 – Sub-particular 4 e)

[375] There is no specific statement attributed to this fifth sub-particular. Rather, it simply states that Corporal Hollingsworth falsely **suggested** that Mrs. V.F. learned that Mrs. D.R. used her grandmother's car to attend the residence of Mr. M.F. from Mr. D.R. I have not been pointed to any specific statement or statements to support this particular.

[376] What I have been pointed to is Mr. D.R.'s testimony in this regard. This testimony appears in the Conduct Hearing Transcript, Volume 2, page 180. In this, the Conduct Authority Representative told me that Mr. D.R. testified that he may have volunteered the information. I was also pointed to the discrepancy in the evidence relative to the picture of the vehicle sent to Corporal Hollingsworth by Mrs. D.M. The Conduct Authority Representative's position was that the timing did not make sense; therefore, Mrs. V.F. could not have learned about the maroon vehicle from Mr. D.R. However, as I read it, he testified that he believed he provided information relative to the maroon vehicle to Mrs. V.F. during the telephone conversation following the July 20, 2016 incident. He was very definite that it was Mrs. V.F. who raised this in the conversation. The only thing he could not recall was what was said about where she obtained the information.

[377] The manner in which the sub-particular is worded does not suggest any particular time frame for this knowledge to have been acquired by Mrs. V.F.

[378] The Conduct Authority Representative has not pointed me to any evidence that indicates how Mrs. V.F. knew about the vehicle being at the property owned by Mr. G.M. and Mrs. D.M. nor have they shown me any evidence that she knew the ownership of the vehicle prior to the telephone conversation with Mr. D.R. on the evening of July 20, 2016. Mrs. V.F. and Mr. D.R. spoke about the

maroon vehicle. Therefore, it cannot be demonstrated that Corporal Hollingsworth's suggestions, if any, were false or misleading. This sub-particular is not established.

Allegation 5 – Sub-particular 4 f)

[379] The sixth sub-particular does not include any specific statements. Rather, it simply says that Corporal Hollingsworth falsely **implied** that everything Mrs. V.F. learned about Constable Freeman's work, training and personal schedule was from Mr. D.R. and not her.

[380] I have not been provided any direct supportable evidence that Corporal Hollingsworth provided Mrs. V.F. any information about Constable Freeman's work, training and personal schedule, other than a single text message that appears at page 883 of the investigation binder.

[381] Mr. D.R. provided both a statement in the investigation and testimony in this hearing. It is clear that he was a totally disinterested party. He unequivocally stated that he was and is totally disinterested or indifferent to what his wife, Mrs. D.R., was doing. His demeanour and testimony clearly supported this indifference in the matters involved in the conduct hearing. Nevertheless, he did provide some information that he discussed with Mrs. V.F.

[382] Given his disinterest, I do not take his lapse of memory or inability to recall the contents of their telephone conversation as evidence that he did not provide information to Mrs. V.F. Much of what Mrs. V.F. knew about Mr. Freeman's whereabouts and activities only occurred after her one- to two-hour telephone call with Mr. D.R. on the evening of July 20, 2016. Mr. D.R. did make some vague suggestions that he and Mrs. V.F. talked about things related to Mr. Freeman's travel.

[383] In the text message string previously noted, Mrs. V.F. disclosed other specific information that clearly came from Mr. D.R., so it is not unreasonable to believe that Mr. D.R. provided information about Mr. Freeman.

[384] I have also noted previously that Mrs. V.F. had numerous sources of information with respect to Constable Freeman's work training and personal schedule. Simply because Mrs. V.F. knew information about Constable Freeman's work training and personal schedule does not mean that she obtained the information from Corporal Hollingsworth.

[385] As a passing comment, I note that the verb “imply” is defined as “to involve or indicate by inference, association, or necessary consequence rather than by direct statement.” Given this, I am not sure that implying something in a statement can qualify as a false or misleading statement. This will also apply to the next sub-particular.

[386] Based on the foregoing, I do not find that this sub-particular has been established.

Allegation 5 – Sub-particular 4 g)

[387] The seventh sub-particular also contains reference to a false **implication**. This implication was that Inspector Manj was not involved with the various text messages and on-going detailed exchange of information with respect to the July 20, 2016, physical confrontation at the property owned by Mr. G.M. and Mrs. D.M. The sub-particular contains a specific statement which reads, “And so when, when this all went down I knew minimal details.” This sentence appears at the top of page 14 of the statement. The lead up to this response begins on page 13 with Sergeant Lovie discussing the third allegation in the mandate letter. Sergeant Lovie quoted the portion of the mandate letters as follows, “Corporal Hollingsworth knew about this encounter and afterwards did not direct that the incident be reported or investigated.”

[388] The questions and answers then relate to what Corporal Hollingsworth’s knowledge of the physical encounter on the property owned by Mr. G.M. and Mrs. D.M. was immediately after it occurred. Inspector Manj is discussed, and Sergeant Lovie is told by Corporal Hollingsworth that Inspector Manj was not home at the time she was trying to deal with the information she was receiving via text message from Mrs. V.F. So, I do not see how her statement that she only knew minimal details is false or misleading in the way the Conduct Authority has specified in the sub-particular. I have already noted that Corporal Hollingsworth was seeking to obtain more details of the event from Mrs. V.F.

[389] There is also evidence that, when the physical confrontation between Mr. Freeman and Mrs. V.F. took place on July 20, 2016, Inspector Manj was at the office trying to complete work prior to his annual leave and ultimately his departure from Lloydminster Detachment shortly after he returned from that leave. It is clear that he was not home when the aftermath of the physical confrontation at the property owned by Mr. G.M. and Mrs. D.M. was unfolding between Mrs. V.F.

and Corporal Hollingsworth. Therefore, I cannot see how Corporal Hollingsworth's statement falsely implies that Inspector Manj was not involved in the various text messages and on-going exchange of information with respect to the physical confrontation. He was not home with Corporal Hollingsworth at the time. There are no text messages in evidence in which he is directly involved in the July 20, 2016 incident. Therefore, I cannot find that this sub-particular has been established.

Allegation 5 – Sub-particular 4 h)

[390] The eighth and final sub-particular states that Corporal Hollingsworth acknowledged that she had learned details of what was going on between Mr. M.F. and Mrs. D.R. because of work gained knowledge, but then she deliberately misled the investigator by stating that she did not get involved because it was work related. The statement cited in support of this sub-particular appears near the bottom of page 18 of her statement and reads:

And I know that because it's work I have to separate personal and work. And I always have. And this was a work thing.

[391] The questions and answers immediately preceding this statement make it clear that Corporal Hollingsworth's comment refers specifically to her reasons for not telling Mrs. V.F. about what she knew about the relationship between Mr. Freeman and Mrs. D.R. The exchange, beginning at the top of page 18, is in response to the standard open-ended question at the end of a statement, "Is there anything else you wish to say?" Corporal Hollingsworth's response reads like this:

A: So this was on the, July the 17th, and I texted [Mrs. D.M.] and I just said, "This is making me ill, or it's making me ill. I'm going to her, at her house," meaning [Mrs. V.F.]'s, "Tonight. Or tomorrow night, it's her birthday and she wanted to hang out with friends. Knowing what I know I don't feel I can be a good, I'm being a good friend. I can't interfere, I just can't interfere. I wish there was, I wish there was a way to clue her in a little. She has, she still has hope that they could get back together." And which is, [Mrs. D.M.] and I just talked about you know sometimes that fang comes out and you wanna do something, but you don't do it because it's not right. Right?

Q: Right, yeah.

A: But we just, you know that fang could come out on Monday when [Mrs. D.R.] returned to work and stuff. But she didn't end up returning to work. And I just said, "How upset I was over this and I can't believe she did this to Suki and I." And then she talks about, "That Mark is very concerned about his finances at this point, and she hoped [Mrs. V.F.] does not get taken

advantage when it comes to the financial part". Uh, what are (unintelligible). And then I just talked about, "That I don't know what to do. If I tell her about the time at our house she'll know that I've been keeping that from her. And I'd hoped that she'd understand that after that the incident I had to work with the two of them, but she may hate me too." Said, "I'm having such a tough time with this. We haven't told anyone about this like we have you guys. And I'm sorry for leaning on you, but I'm at a loss of what to do. She needs my support and I'm not giving her all that I can." So this was weighing on me, and the only person I had to talk to was [Mrs. D.M.], because she had mentioned that she had seen things at her house.

Q: Right.

A: So, and she's just, so, yeah, yeah, we ...

Q: So it sounds, it sounds to me like you, you fall, you felt very torn from your, I don't wanna say allegiance, but your friendship with [Mrs. V.F.], having that knowledge of what ...

A: Yeah.

Q: ... may or may not be going on, but what you possibly suspect is going on. And then her being blind to it.

A: Well, that's, yeah.

Q: And then you're not being, being able to come forward with it. Correct?

A: And it's not my place to tell her.

Q: Yeah.

A: And I know that because it's work I have to separate personal and work. And I always have. And this was a work thing.

Q: Yeah.

A: And even though personally I felt allegiance to [Mrs. V.F.] that she needs to know this, she's my friend, why wouldn't a friend tell somebody something like that?

Q: Yeah.

A: When, so, yeah, I was very torn, and it just, it just got very complicated and.

Q: For sure.

A: And I'm glad [Mrs. V.F.] understood why I did it the way I did, what I did and why I did and. But, yeah.

[392] Corporal Hollingsworth was consistent in her testimony that she possessed certain information from both the workplace (i.e. the Ricki Rumour) and other sources, such as the incident at her home following the Detachment Levee that she did not share with Mrs. V.F. There is nothing

in the evidence to contradict these statements. There is nothing in the evidence to show that Corporal Hollingsworth did in fact tell Mrs. V.F. about these things.

[393] The statement, in context, has nothing to do with whether or not Corporal Hollingsworth learned intimate details about Mr. Freeman and Mrs. D.R. gathered from work. The statement is about Corporal Hollingsworth's reasons for not telling Mrs. V.F., prior to the July 20, 2016 incident, about what she knew about the affair between Mr. Freeman and Mrs. D.R. Who knew better than Corporal Hollingsworth what her reasons were for not being more forthcoming with her friend, Mrs. V.F.? It is no one's place to tell her what she did or did not believe. Given this, I cannot say that this sub-particular has been established.

Conclusion – Allegation 5

[394] On the basis of the foregoing analysis and my finding that none of the statements made by Corporal Hollingsworth contained in the particulars were established, I cannot find that the allegation itself is established.

CONCLUSION

[395] I have found that none of the five allegations against Corporal Hollingsworth have been established.

[396] This decision constitutes the written decision required to be served on the parties under subsection 25(3) of the *CSO (Conduct)*. It may be appealed to the Commissioner by filing a statement of appeal within 14 days of the service of the decision on Corporal Hollingsworth (section 45.11 of the *RCMP Act*; section 22 of the *Commissioner's Standing Orders (Grievances and Appeals)*, SOR/2014-293).



Kevin L. Harrison
Conduct Board

May 13, 2019
Date